



ORIGINES ECCLESIASTICÆ;
OR, THE
ANTIQUITIES
OF
THE CHRISTIAN CHURCH,
AND
OTHER WORKS,

OF THE
REV. JOSEPH BINGHAM, M.A.
FORMERLY FELLOW OF UNIVERSITY COLLEGE, OXFORD;
AND AFTERWARDS RECTOR OF HEADBOURN WORTHY, AND HAVANT,
HAMPSHIRE.

WITH THE QUOTATIONS AT LENGTH, IN THE ORIGINAL LANGUAGES,
AND A BIOGRAPHICAL ACCOUNT OF THE AUTHOR.

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CONTENTS

OF

THE SIXTH VOLUME.

BOOK XVI.

OF THE UNITY AND DISCIPLINE OF THE ANCIENT CHURCH.

CHAPTER IV.

A particular Account of those called, Great Crimes. Of Transgressions of the First and Second Commandment. Of the principal of these, viz. Idolatry. Of the several Species of Idolatry, and Degrees of Punishment allotted to them according to the Proportion and Quality of the Offences.

SECT. I. The Mistake of some about the Number of great Crimes, in confining them to Idolatry, Adultery, and Murder, 1.—II. The Account given of great Crimes in the Civil Law extended much further, 2.—III. In the Ecclesiastical Law, the Account of great Crimes extended to the whole Decalogue, 3.—IV. A particular Enumeration of the great Crimes against the first and second Commandments. Of Idolatry, and the several Species or Branches of it, 4.—V. Of the Sacrificati and Thurificati, or such as fell into Idolatry by offering Incense to Idols, or partaking of the Sacrifices, 5.—VI. Of the Libellatici. Wherein their Idolatry consisted, 11.—VII. Of those who feigned themselves Mad, to avoid Sacrificing, 14.—VIII. Of Contributors to Idolatry. Of the Flamines, Munerarii, and Coronati. What they were, and how guilty of Idolatry, 15.—IX. How the Office of Duumvirate made Men guilty of Idolatry, and how it was punished, 17.—X. How Actors and Stage-players, and Charioteers, and other Gamesters, and Frequenters of the Theatre and the Cirque were charged with Idolatry, and punished for it, 19. XI. Idol-makers, their Crime and Punishment, 21.—XII. The Idolatry of Building Heathen Temples and Altars, 24.—XIII. Of Merchants Selling Frankincense to the Idol Temples; and the Buyers and Sellers of the public Victims, 26.—XIV. Of eating Things offered to Idols. How and when it stood chargeable with Idolatry, 27.—XV. Whether a Christian out of Curiosity might be present at an Idol-Sacrifice, not joining in the Service, 28.—XVI. Whether he might eat his own Meat in an Idol-Temple, 32.—XVII. Or Feast with the Heathen on their Idol Festivals, 32.—XVIII. Of the Idolatry of Worshipping Angels, Saints, Martyrs, Images, &c., 41.—XIX. Of Encouragers of Idolatry and Connivers at it. And of the contrary Extreme in Demolishing Idols without sufficient Authority to do it, 41.

CHAPTER V.

Of the Practice of curious and forbidden Arts, Divination, Magic, and Enchantment: and of the Laws of the Church made for the Punishment of them.

SECT. I. Of several sorts of Divination; particularly of Judicial Astrology, 46.—II. Of Augury and Soothsaying, 52.—III. Of Divination by Lots, 53.—IV. Of Divination by express Compact with Satan, 57.—V. Of Magical Enchantment and Sorcery, 60.—VI. Of Amulets, Charms, and Spells to cure Diseases, 62.—VII. Of the Prestigiae, or false Miracles wrought by the Power of Satan, 70.—VIII. Of the Observation of Days and Accidents, and making Presages and Omens upon them, 74.

CHAPTER VI.

Of Apostasy to Judaism and Paganism; of Heresy and Schism; and of Sacrilege and Simony.

SECT. I. Of such as apostatized totally from Christianity to Judaism, 80.—II. Of such as mingled the Jewish Religion and the Christian together, 82.—III. Of such as communicated with the Jews in their unlawful Rites and Practices, 85.—IV. Of such as apostatized voluntarily into Heathenism, 91.—V. Of Heretics and Schismatics, and their Punishments, both Ecclesiastical and Civil, 94.—VI. A particular Account of the Civil Punishments inflicted on them by the Laws of the State, 95.—VII. How Heretics were treated by the Discipline of the Church. First, they were anathematized, and cast out of the Church, 100.—VIII. Secondly, Debarred from entering the Church by some Canons, though not by all, 102.—IX. Thirdly, No one to encourage Heretics and Schismatics by frequenting their Assemblies, 103.—X. Fourthly, No one to eat or converse with Heretics, or receive their presents, or retain their Writings, or make marriages with them, &c. 105.—XI. Fifthly, Heretics not allowed to be Evidence in any Ecclesiastical Cause against a Catholic, 106.—XII. Sixthly, Heretics not allowed to succeed to any Paternal Inheritance, 109.—XIII. No Heretic to have Promotion among the Clergy after his Return to the Church, 110.—XIV. No one to be ordained who kept any in his Family that were not of the Catholic Faith, 111.—XV. No one to bring his cause before an heretical Judge under Pain of Excommunication, 111.—XVI. What Term of Penance imposed upon relenting Heretics, 112.—XVII. How this varied according to the age, and State, and Condition, of several Sorts of Heretics, 113.—XVIII. Heresiarchs more severely treated than their Followers, 115.—XIX. And voluntary Deserters more severely than they who complied only out of Fear, 116.—XX. A difference made between such Heretics as retained the Form of Baptism, and such as rejected or corrupted it, 117.—XXI. No one to be reputed a formal Heretic, before he contumaciously resisted the Admonition of the Church, 117.—XXII. The like Distinctions observed in inflicting the Censures of the Church upon Schismatics, according to the different Nature, and various degrees of their Schism, 119.—XXIII. Of Sacrilege: particularly of diverting Things appropriated to sacred Uses, to other Purposes, 120.—XXIV. Of Sacrilege committed in Robbing Graves, 122.—XXV. The Sacrilege of the ancient Traditors, who delivered up their Bibles and sacred Utensils to the Heathen to be burnt, 125.—XXVI. The Sacrilege of profaning the Sacraments, and Churches, and Altars, and the Holy Scriptures, &c., 126.—XXVII. The Sacrilege of depriving men of the Use of the Scripture, and the Word of God, and the Sacraments, particularly the Cup in the Lord's Supper, 130.—XXVIII. Of Simony in buying and selling spiritual Gifts, 132.—XXIX. Of Simony in purchasing spiritual Preferments, 136.—XXX. Of Simony in ambitious Usurpation of Holy Offices, and Intrusion into other Men's Places and Preferments, 137.

CHAPTER VII.

Of Sins against the Third Commandment, Blasphemy, profane Swearing, Perjury, and Breach of Vows.

SECT. I.—The Blasphemy of Apostates, 141.—II. The Blasphemy of Heretics and Profane Christians, 143.—III. The Blasphemy against the Holy Ghost. Where is particularly enquired, what notion the Ancients had of it; in what sense they believed it Unpardonable; and what Censures they inflicted on it, 145.—IV. Of Profane Swearing. All Oaths not forbidden, 165.—V. But only the Custom of vain and common Swearing, 171.—VI. And swearing by the Creatures, 172.—VII. And by the Emperor's Genius, and Saints, and Angels, &c., 175.—VIII. Of Perjury and its Punishment, 179.—IX. Of Breach of Vows, 182.

CHAPTER VIII.

Of Sins against the Fourth Commandment, or Violations of the Law enjoining the religious Observation of the Lord's-Day.

SECT. I. Absenting from religious Assemblies on the Lord's-Day, how punished by the Laws of the Church, 184.—II. Of frequenting some Part of the Lord's-Day service, and neglecting the rest, 186.—III. Fasting on the Lord's-Day prohibited under Pain of Excommunication, 186.—IV. Frequenting the Theatres and other Shows and Pastimes on this Day, how punished, 189.

CHAPTER IX.

Of great Transgressions against the Fifth Commandment, viz. Disobedience to Parents and Masters; Treason and Rebellion against Princes; and Contempt of the Laws of the Church.

SECT. I.—Children not to desert their Parents under Pretence of Religion. The Censure of such as taught otherwise, 191.—II. Children not to marry without the consent of their Parents, 193.—III. Nor Slaves without the Consent of their Masters, 197.—IV. The Punishment of Treason, and Disrespect to Princes, 197.—V. Contemners of the Laws of the Church how censured, 202.

CHAPTER X.

Of great Transgressions against the Sixth Commandment; of Murder and Manslaughter, Parricide, Self-murder, Dismembering the Body, exposing of Infants, causing of Abortion, &c.

SECT. I. Murder ever reckoned a capital and unpardonable Crime by the Laws of the State, 204.—II.—How punished by the Laws of the Church, 205.—III. The Heinousness of Murder when joined with other Crimes, as Idolatry, Adultery, and Magical Practices, 207.—IV. Causing of Abortion condemned and Punished as Murder, 208.—V. The Punishment of Parricide, 210.—VI. Of Self-Murder, 211.—VII. Of Dismembering the Body, 212.—VIII. Of Involuntary Murder by Chance or Manslaughter, 213.—IX. False Witness against any Man's Life reputed Murder, 215.—X. Informers against the Brethren in Time of Persecution, treated as Murderers, 217.—XI. Exposing of Infants reputed Murder, 217.—XII. If a Virgin deflowered by a Rape kills herself for Grief, the Corrupter is reputed guilty of the Murder, 220.—XIII. The Lanistæ, or Fencing-Masters, reputed Accessories to Mur-

der, and their Calling condemned, 221.—XIV. Spectators of the Murders committed on the Stage, accounted Accessories to Murder also, 222.—XV. Famishers of the Poor and Indigent, reputed guilty of Murder, 224.—XVI. And all they by whose Authority Murder was committed, 224.—XVII. Enmity, and Strife, and Quarrelling, punished as lower Degrees of Murder, 225.

CHAPTER XI.

Of great Transgressions against the Seventh Commandment, Fornication, Adultery, Incest, Polygamy, &c.

SECT. I. The Punishment of Fornication, 227.—II. Of Adultery, 228.—III. Of Incest, 232.—IV. Whether the Marriage of Cousins-germans was reckoned Incest, 225.—V. Of Polygamy and Concubinage, 229.—VI. Of Marrying after unlawful Divorce, 243.—VII. Of Second, Third, and Fourth Marriages, 248.—VIII. Of Ravishment, 251.—IX. Of unnatural Impurities, 253.—X. Of maintaining and allowing Harlots, 256.—XI. Of writing and reading lascivious Books, 260.—XII. Frequenting the Theatre and Stage-plays forbidden upon this Account, 261.—XIII. As also all excess of Riot and Intemperance for the same Reason, 265.—XIV. And promiscuous Bathing of Men and Women together, 267.—XV. And promiscuous and lascivious Dancing, wanton Songs, &c., 270.—XVI. As also promiscuous Clothing, or Men and Women interchanging Apparel, 273.—XVII. And suspected Vigils, or Pernoctations of Women in Churches under Pretence of Devotion, 275.

CHAPTER XII.

Of great Transgressions of the Eighth Commandment, Theft, Oppression, Fraud, &c.

SECT. I.—The Censure of those Heretics who taught the Doctrine of Renunciation, or Necessity of having all Things Common, 276.—II. Of Plagiarism, or Man-stealing, 278.—III. Of Malicious Injustice, 278.—IV. Of Simple Theft, 279.—V. Of detaining lost Goods from the true Owner, 280.—VI. Of refusing to pay just Debts, 282.—VII. And what Men are bound to by the Obligation of Promise and Contract, 283.—VIII. Of removing Bounds and Landmarks, 284.—IX. Of Oppression, 285.—X. Of the Exactions and Bribery of Judges, 288.—XI. Of the Exactions of Publicans, and Collectors of the Public Revenues, and other Officers of the Roman Empire, 290.—XII. Of the Exactions of Advocates and Lawyers, and Apparitors of Judges, 292.—XIII. Of griping Usury and Extortion, 294.—XIV. Of Forgery, 295.—XV. Of Calumny with regard to Men's Estates and Fortunes : and the Reverse of it, the Fraud of Adulation and Flattery, 298.—XVI. Of Deceitfulness in Trust, 302.—XVII. Of Deceitfulness in Traffic, 304.—XVIII. Of abetting and concealing of Robbers ; buying stolen Goods, &c., 312.—XIX. Idleness censured as the Mother of Robbery, 314.—XX. And Gaming as an Occasion of Fraud, and Ruin of many poor Families, who by this Means were reduced to the greatest Exigence, 317.

CHAPTER XIII.

Of great Transgressions against the Ninth Commandment, False Accusation, Libelling, Informing, Calumny and Slander, Railing and Reviling.

SECT. I. Of False Witness, 320.—II. Of Libelling, 324.—III. Of Detraction, Whispering, and Backbiting, 324.—IV. Of Railing and Reviling, or scurrilous and abusive Language : and of revealing Secrets, 325.—V. Of Lying. How far it brought Men under the Discipline of the Church, 328.

CHAPTER XIV.

Of great Transgressions against the Tenth Commandment, Envy, Covetousness, &c.

- SECT. I. Whether Envy brought Men under the Discipline of the Church, 332.
 —II. Of Pride, Ambition, and Vain-glory, 334.—III. Of Covetousness, 334.
 —IV. Of Carnal Lusts, 335.

BOOK XVII.

OF THE EXERCISE OF DISCIPLINE UPON THE CLERGY IN THE ANCIENT CHURCH.

CHAPTER I.

Of the Difference of Ecclesiastical Censures inflicted on Clergymen and Laymen.

- SECT. I. The peculiar notion of Communion Ecclesiastical, and Excommunication Ecclesiastical, as applied to the Clergy, 337.—II. The Clergy usually punished by a Removal from their Office, but not always subjected to public Penance, as Men wholly cast out of the Communion of the Church, 340.—III. Yet in some special Cases both Penalties inflicted, 340.—IV. Of Suspension from their Revenues, 342.—V. Of Suspension from their Office, 342.—VI. Of Deposition or Degradation, 343.

CHAPTER II.

Of reducing the Clergy to the State and Communion of Laymen, as a Punishment for great Offences.

- SECT. I. Lay-Communion not the same as Communion in one Kind only, 345.—II. Neither does it signify barely communicating among Laymen without the Rails of the Chancel, 347.—III. But a Total Degradation, or Deprivation of Orders, and Reduction to the State and Condition of Laymen, 348.—IV. Clergymen thus reduced, seldom allowed to recover their ancient Station, 350.—V. Notwithstanding the indelible Character of Ordination, 351.—VI. But sometimes excommunicated, as well as deposed, and denied the Communion of Laymen, 353.—VII. Sometimes removed and corrected by the Assistance and Authority of the secular Power, 354.—VIII. What meant by the Punishment called *Curia tradi*, or delivering up to the secular Court, 355.

CHAPTER III.

Of the Punishment called Peregrina Communio, or reducing Clergymen to the Communion of Strangers.

- SECT. I. The several Canons wherein this Punishment is mentioned, 359.—II. The Communion of Strangers not the same as Lay-Communion, 360.—III. Nor Communion in one Kind, 361.—IV. Nor Communion at the Hour of Death, 361.—V. Nor the Communion of such as were enjoined to go on Pil-

grimage on Earth, which was a Piece of Discipline unknown to the Ancients, 362.—VI. Nor any private and peculiar Oblation for Strangers, 363.—VII. But communicating only as Strangers travelling without commendatory letters, who might partake of the Churches' Charity, but not of the Communion of the Altar, 364.—VIII. This Notion confirmed from several Parts of ancient History, 368.—IX. What Sort of Penance was necessary to restore such delinquent Clergymen to their Office and Station again, 369.

CHAPTER IV.

Of some other special and peculiar Ways of inflicting Punishment on the Clergy.

SECT. I. Sometimes the Clergy perpetually suspended from their Office, yet allowed to retain their Title and Dignity, 372.—II. Sometimes degraded not totally, but partially, from one Order to another, 374.—III. Sometimes deprived of a part of their Office, but allowed to exercise the rest, 375.—IV. Sometimes deprived of their Power over a part of their Flock, but allowed it over the rest, 376.—V. Bishops in Africk punished by depriving them of their Seniority, and Right of succeeding to the Primacy or metropolitical Power, 377.—VI. Also by confining them to the Communion of their own Church, 377.—VII. Or by removing them from a greater Diocese to a lesser, 378.—VIII. The Clergy in general punished by a Loss of their Seniority among those of their own Order, 379.—IX. The inferior Clergy punished by rendering them incapable of being promoted to any higher Order, 380.—X. The Clergy sometimes punished by denying them the public Exercise of their Office, whilst they were allowed to officiate in private, 383.—XI. Of Intrusion of Offenders into a Monastery to do penance in private, 383.—XII. Of corporal Punishment. How far used as a Piece of Discipline upon the inferior Clergy, 385.

CHAPTER V.

A particular Account of the Crimes for which Clergymen were liable to be punished with any of the forementioned Kinds of Censure.

SECT. I. All Crimes that were punished with Excommunication in a Layman, punished with Suspension or Deprivation in the Clergy, 388.—II. Some Crimes rendered an Ordination originally void: and for such Crimes the Clergy were immediately liable to be degraded from the very Moment of their Ordination. As I. For Ignorance or Heterodoxy in Religion, 389.—III. Secondly, for great Immorality before their Ordination: and for being ordained against any of the known Rules of Ordination. As if he were a Digamist, or married to a Widow, or to one that had been divorced from another Man. If he were ordained *ἀπολειμμένως*, without being fixed to some particular Diocese. If he were ordained without Letters dismissory, against the Consent of his own Bishop; or without the Consent of any of the Parties that had a right to vote in his Election. If any Bishop was ordained, who had before been degraded from his Orders. Or if he was ordained into a full See, where another was regularly ordained before him. If any was an *Energumen*, or under the Agitation of an evil Spirit, when he was ordained. If any had voluntarily mangled his own Body; if any one was ordained, who had never been baptized, or not baptized in due Form, or was baptized by Heretics, or re-baptized by them; if any made use of the secular Powers to gain a Promotion in the Church; if a Bishop ordained any of his own unworthy kindred; if a Bishop clandestinely ordained his own Successor without the Consent of the Metropolitan or a provincial Council; or if two Bishops clandestinely ordained a Bishop without the Consent of their Fellow Bishops

and the Metropolitan ; In all these cases the Clergy so ordained were liable to be deposed for transgressing the Rules of Ordination, 390.—IV. No Remedy allowed in this Case by doing public Penance for offences. For all public Penitents were for ever incapable of Ordination. And if any such were ordained, they were immediately liable to be deposed and degraded, 398.—V. Some impediments of Ordination arising from Men's outward State and Condition in the World, were also sometimes Occasions of Deprivation. As if any Soldier was ordained, or any Slave or vassal without the Consent of his Master ; or any Member of a civil Corporation, or any of the *Curiales* in the Roman Government, 400.—VI. What Crimes might occasion the Deprivation of the Clergy, or other Censures to befall them, in the Performance of their Office, or rather Non-performance of it after Ordination. Clergymen to be censured for Contempt of the Canons in general, 402.—VII. More particularly for Negligence in their Duty, 402.—VIII. For neglecting to use the public Liturgy, Lord's Prayer, Hymns, &c., 403.—IX. For making any alteration in the Form of Baptism, 404.—X. For not frequenting divine Service daily, 404.—XI. For meddling with secular Offices, 405.—XII. For deserting their own Church without Licence, to go to another, 407.—XIII. For officiating after the Condemnation of a Synod, 408.—XIV. For appealing from the Censure of a provincial Synod to any foreign Churches, 409.—XV. For refusing to end Controversies before Bishops, and flying to a secular Tribunal, 410.—XVI. For suffering themselves to be re-baptized or re-ordained, 413.—XVII. For denying themselves to be Clergymen, 415.—XVIII. For publishing Apocryphal Books, 415.—XIX. For superstitious Abstinence from Flesh, Wine, &c., 416.—XX. For eating of Blood, 417.—XXI. For contemning the Fasts or Festivals of the Church, 419.—XXII. For not observing the Rule about Easter, 420.—XXIII. For wearing an indecent Habit, 421.—XXIV. For keeping Hawks or Hounds, and following any unlawful Diversions, 422.—XXV. For suspicious Cohabitation with strange Women, 424.—XXVI. For marrying after Ordination, 425.—XXVII. For retaining an adulterous Wife, 427.—XXVIII. For Non-Residence, 427.—XXIX. For attempting to hold Preferment in two Dioceses, 429.—XXX. For needless frequenting of public Inns and Taverns, 430.—XXXI. For conversing familiarly with Jews, Heretics, or Gentile Philosophers, 431.—XXXII. For using over-rigorous Severity toward Lapsers, 431.—XXXIII. For want of Charity to indigent Clergymen in their Necessity, 432.—XXXIV. For judging in Cases of Blood, 433.—XXXV. Crimes for which Bishops in particular might be suspended or degraded. For giving Ordinations contrary to the Canons, 434.—XXXVI. For neglecting to put the Laws of Discipline in execution, 435.—XXXVII. For dividing their Diocese, and erecting new Bishoprics without Leave. Or for extending their Claim to other Men's Rights beyond their own Limits and Jurisdiction, 436.—XXXVIII. For not attending Provincial Councils, 437.—XXXIX. For oppressing the People with unjust Exactions, 438.—XL. For harbouring such as fled from another Diocese without Leave, 439.—XLI. '*Chorepiscopi*' might be censured for acting beyond their Commission, 439.—XLII. And Presbyters for usurping upon the Episcopal Office, 440.—XLIII. And Deacons for assuming Offices and Privileges above their Order and Station, 441.

BOOK XVIII.

OF THE SEVERAL ORDERS OF PENITENTS, AND THE METHOD
OF PERFORMING PUBLIC PENANCE IN THE CHURCH, BY
GOING THROUGH THE SEVERAL STAGES OF REPENTANCE.

CHAPTER I.

A particular Account of the several Orders of Penitents in the Church.

SECT. I. Penitents divided into four distinct Orders or Stations, 443.—II. The first Original of this Distinction, 445.—III. Of the first Order, called '*Fientes*,' or '*Mourners*,' 445.—IV. Of the second Order, called '*Audientes*,' or '*Hearers*,' 447.—V. Of the third Order, called '*Prostrators*,' or '*Kneelers*,' and Penitents in the strictest Sense, 448.—VI. Of the fourth Order, called '*Consistentes*,' or Co-standers, 450.

CHAPTER II.

Of the Ceremonies used in admitting Penitents to do public Penance, and the Manner of performing public Penance in the Church.

SECT. I. Penitents first admitted to Penance by Imposition of Hands, 452.—II. At which time they were obliged to appear before the Bishop with Sackcloth and Ashes upon their Head. This Ceremony anciently not confined to Ash-Wednesday, or the Beginning of Lent, but Persons were admitted to Penance at any Time, as the Bishop judged most proper in his own Discretion, 452.—III. Penitents obliged to cut off their Hair, or go veiled, as another Token of Sorrow and Mourning, 456.—IV. Penitents to abstain from Bathing and Feasting, and other innocent Diversions of Life, 459.—V. Penitents to observe all the public Fasts of the Church, 459.—VI. Penitents to restrain themselves in the Use of the Conjugal State, 460.—VII. For which Reason no married Persons were admitted to Penance, but by Consent of both Parties, 460.—VIII. Penitents not allowed to marry in the Time of their Penance, 461.—IX. Penitents obliged to pray kneeling, whilst others prayed standing, on all Festivals and Days of Relaxation, 461.—X. Penitents obliged to show great Liberality to the Poor, 462.—XI. And to minister and serve the Church in burying the Dead, 463.

CHAPTER III.

A particular Account of the Exomologesis, or penitential Confession of the ancient Church; showing it to be a different thing from the private or auricular Confession introduced by the Church of Rome.

SECT. I. The gross Mistake of those who make the '*Exomologesis*' of the ancient Church to signify Auricular Confession, 464.—II. No Necessity of Auricular Confession ever urged by the ancient Church, 467.—III. This proved further from the Practice of the Ancients in denying all manner of Absolution to some relapsing Sinners, without excluding them from the Mercy and Pardon

of God, upon Confession to him alone, 473.—IV. And from above twenty Considerations of the like nature, 477.—V. Yet private Confession allowed and encouraged in some cases. As first for lesser Sins, Men were advised mutually to confess to one another, to have each other's Prayers and Assistance, 481.—VI. Secondly, in case of Injuries done to private Persons, Men were obliged to confess, and ask Pardon of the injured Party, 483.—VII. Thirdly, When they were under any Troubles of Conscience, they were advised to make private Confession to a Minister, to have his Counsel and Direction, 484.—VIII. Fourthly, to take his Advice also, whether it was proper to do public Penance for private Offences, 485.—IX. Fifthly, When there was any Danger of Death arising from the Laws of the State against certain Offences, 488.—X. Sixthly, Private Confession was also required in case of private Admonition for Offences, 489.—XI. The Office of the penitentiary Priest set up in many Churches to receive and regulate such private Confessions, 489.—XII. This Office was afterwards abrogated in the East by Nectarius, and Men were left to their liberty as to what concerned private Confession, 490.

CHAPTER IV.

Of the great Rigour, Strictness, and Severity of the Discipline and Penance of the ancient Church.

SECT. I. Public Penance ordinarily allowed but once to any sort of Sinners, 494.—II. Some Sinners held under a strict Penance all their Lives to the very Hour of Death, 499.—III. Such as were absolved upon a Death-bed, were obliged to perform their ordinary Penance, if they recovered, 501.—IV. Some Sinners were denied Communion at their last Hour, 503.—V. How this may be vindicated and cleared from the Charge of Novatianism, 510.—VI. This Rigour abated in after Ages, without any Reflection on the preceding Practice, 512.—VII. What Liberty was allowed to Bishops in imposing of Penance, and exacting proper Satisfaction of Sinners. Some Sinners allowed to do Penance twice, 515.—VIII. Bishops had also Power to moderate the Term of Penance upon just Occasion, 517.—IX. And this was the true ancient Notion of an Indulgence, 519.—X. Which was sometimes granted at the Intercession of the Martyrs, or the Instance of the Civil Magistrate, 520.—XI. Bishops had also a Power to alter the Nature of the Penalty in some measure, as well as the term of it, 521.—XII. What the Ancients mean by the Term '*Legitima Pœnitentia*,' 521.—XIII. What meant by the Phrase '*Inter Hyemantes orare*,' 522.

BOOK XIX.

OF ABSOLUTION, OR THE MANNER OF RE-ADMITTING PENITENTS INTO THE COMMUNION OF THE CHURCH AGAIN.

CHAPTER I.

Of the Nature of Absolution, and the several sorts of it: more particularly of such as relate to the penitential Discipline of the Church.

SECT. I. All Church Absolution only ministerial, not absolute, 527.—II. Of the grand Absolution of Baptism. That this was of no use in penitential Discipline to Persons once baptized, 530.—III. Of the Absolution granted by the Eucharist, 535.—IV. Of Absolution declaratory and effective by the Ad-

ministration of the Word and Doctrine, 538.—V. Of the precatory Absolution given by Imposition of Hands and Prayer 539.—VI. Of the Judicial Absolution of Penitents by restoring them to the Peace and full Communion of the Church, 544.

CHAPTER II.

Of the Circumstances, Rites, and Customs, anciently observed in the public Absolution of Sinners.

SECT. I. No Sinners anciently absolved, till they had performed their regular Penance, except in case of imminent Death, 546.—II. Penitents publicly reconciled in Sackcloth at the Altar, 548.—III. Sometimes more publicly before the '*Apsis*,' or Reading-Desk, 549.—IV. Absolution at the Altar always given in a supplicatory Form by Imposition of Hands and Prayer, 550.—V. Absolution in the Indicative Form, '*Ego te absolvo*,' not used till the twelfth Century, 556.—VI. In what Sense that Form may be allowed, 557.—VII. Why Chrism or Unction was sometimes added to Imposition of Hands in the Reconciliation of certain Heretics and Schismatics to the Church, 560.—VIII. Why some Heretics could be reconciled no other way but by a new Baptism, 563.—IX. What Conditions were required of those who fell from the Church into any Heresy or Schism, when they were reconciled to the Church again, 565.—X. Of the Time of Absolution, 567.—XI. How the Church absolved some Penitents, and received them into Communion after Death, 568.

CHAPTER III.

Of the Minister of Ecclesiastical Discipline, and particularly of the Minister of Absolution.

SECT. I. All the Power of Discipline primarily lodged in the Hands of the Bishop, 571.—II. This in many Cases committed to Presbyters, either by a general or particular Commission, 572.—III. And to Deacons also, 573.—IV. How far, and in what Sense Absolution might be said to be given by a Layman, 575.

THE ANTIQUITIES
OF THE
CHRISTIAN CHURCH.

BOOK XVI.

OF THE UNITY AND DISCIPLINE OF THE ANCIENT CHURCH.

CHAPTER IV.

A PARTICULAR ACCOUNT OF THOSE CALLED GREAT CRIMES, THE PRINCIPAL OF WHICH WAS IDOLATRY. OF ITS SEVERAL SPECIES, AND DEGREES OF PUNISHMENT ALLOTTED TO THEM ACCORDING TO THE PROPORTION AND QUALITY OF THE OFFENCES.

SECT. I. — *The Mistake of some about the Number of great Crimes, in confining them to Idolatry, Adultery, and Murder.*

LEARNED men are not well agreed about the number of those which the ancients called great crimes, with reference to the ecclesiastical punishment; nor about the reason and foundation of that title. There were some in St. Austin's time, who were for confining great crimes, for which excommunication was to be inflicted, to three only, adultery, idolatry, and murder: these they allowed to be mortal sins, and made no doubt but that they were to be punished^a with excommunication, till

^a Aug. de Fide et Oper. c. xix. Qui autem opinantur cetera eleemosynis facile compensari, tria tamen mortifera esse non dubitant et excommunicationibus punienda, donec poenitentia humiliore sanentur, impudicitiam, idololatriam, homicidium. (Benedict. vol. vi. p. 136. B.)

they were cured by the humiliation of public penance : but for all others, they said compensation might easily be made by giving of alms. This St. Austin labours to confute, not only in the place alleged, but in several others,^b by which it is evident that these were not the only great crimes, that were punished with excommunication. And, therefore, those modern authors make a wrong representation of the ancient discipline, who confine it to those three great crimes, or to such as may be reduced to them : since it is apparent from what is now said, that it extended much farther ; and, as I shall presently show, included all the great crimes against the whole Decalogue, or transgressions of the moral law in every instance.

SECT. II.—*The Account given of great Crimes in the Civil Law, extended much farther.*

And it is very observable, that even in the civil law, the account that is given of great crimes, extended much farther. For when the emperors, according to custom, at the Easter festival, granted a general release and indulgence to such as were imprisoned for their misdemeanours ; they still excepted several other heinous crimes, specified in their laws, some five, some six, some eight, some ten, which cannot be reduced to the three crimes of idolatry, adultery, and murder. The laws of Valentinian and Gratian^c except seven capital crimes from any benefit of such indulgence, viz. sacrilege, treason, robbing of graves, necromancy, adultery, ravishment, and murder. The laws of Theodosius the Great except eight capital crimes, treason, parricide, murder, adultery, ravishment, incest, necro-

^b Vide sis Augustin. Hom. Ultim. ex L. citat. sub litt. seq. (f) et de Civitate Dei, lib. xxi. c. xxvii.

^c Cod. Theodos. lib. ix. tit. xxxviii. de Indulgentiis Criminum, leg. iii. Ob diem paschæ, quem intimo corde celebramus, omnibus, quos reatus adstringit, carcer inclusit, claustra dissolvimus. Attamen sacrilegus, in majestate reus, in mortuos veneficus, sive maleficus, adulter, raptor, homicida, communione istius muneris separentur.—Ibid. leg. iv. Paschæ celebritas postulat, ut quoscunque nunc ægra expectatio quæstionis poenæque formido sollicitat, absolvamus : decretis tamen veterum mos gerendus est, ne temere homicidii crimen, adulterii fœditatem, majestatis injuriam, maleficiorum scelus, insidias venenorum, raptusque violentiam sinamus evadere. [Lugdun. 1665. vol. iii. p. 271.]

mancy, and counterfeiting^d of the imperial coin. And those of Valentinian Junior, except ten; sacrilege, adultery,^e incest, ravishment, robbing of graves, charms, necromancy, counterfeiting the coin, murder, and treason. Now 'when the civil law excepted so many great crimes, under the name of '*Atrocia Delicta*,' from the benefit of these indulgences, it is not probable (were there no other argument to persuade it) that the ecclesiastical law would let any of those heinous offences go unpunished, or wholly escape the severity of Church censure.

SECT. III.—*And in the Ecclesiastical Law, the Account of great Crimes extended to the whole Decalogue.*

But we have clearer and more certain evidence in the case. For first St. Austin says, "The great crimes, which were punished with public penance, were such as were against the whole Decalogue or Ten Commandments,^f of which the Apostle

^d Ibid. leg. vi. [p. 275.] *Paschalis lætitiæ dies ne illa quidem tenere sinit ingenia, quæ flagitia fecerunt: pateat insuetis horridus carcer aliquando luminibus. Alienum autem censemus ab indulgentia, qui nefariam criminum conscientiam 1. in majestatem superbe animaverit: 2. qui parricidali furore raptus sanguine proprio manum tinxit: 3. qui cujusque præterea hominis cæde maculatus est: 4. qui genialis tori ac lectuli fuit invasor alieni: 5. qui verecundiæ virginalis raptor exstitit: 6. qui venerandum cognati sanguinis vinculum profano cæcus violavit incestu: 7. vel qui noxiis quæsitæ graminibus et diris immurmurata secretis, mentis et corporis venena composuit: 8. aut qui sacri oris inicator et divinorum vultuum adpeditior venerabiles formas sacrilegio eruditus impressit.*

^e Ibid. leg. vii. *Religio anniversariæ obsecrationis hortatur, ut omnes omnino periculo carceris metuque poenarum eximi juberemus, qui leviori crimine rei sunt postulati. Unde apparet, eos excipi, quos atrox cupiditas in scelera compulit sæviora: in quibus est primum crimen, 1. et maxime, majestatis, 2. deinde homicidii, 3. veneficii, ac 4. maleficiorum, 5. stupri, atque 6. adulterii, parique immanitate sacrilegii, 7. sepulcri violatio, 8. raptus, 9. monetæque adulterata figuratio.*—Ibid. leg. viii. *Ubi primum dies paschalis exstiterit, nullum teneat carcer inclusum, omnium vincula solvantur. Sed ab his secernimus eos, quibus contaminari potius gaudia lætitiæque communem, si dimittantur, advertimus. Quis enim 1. sacrilego diebus sanctis indulgeat? quis 2. adultero, vel 3. incesti reo tempore castitatis ignoret? quis non 4. raptorem in summa quiete et gaudio communi persequatur instantius? 5. Nullam accipiat requiem vinculorum, qui quiescere sepultos quadam sceleris immanitate non sivit: patiatior tormenta 6. veneficus: 7. maleficus: 8. adulteratorque monetæ: 9. homicida, quod fecit semper expectet: 10. reus etiam majestatis, de Domino, adversum quem talia molitus est, veniam sperare non debet.* [p. 277.]

^f Augustin. Homil. Ult. ex L. c. iv. tom. x. p. 205. (p. 557, edit. Basil.)

says, 'They which do such things, shall not inherit the kingdom of God.'” Only, as Mr. Daillé^s rightly observes, we must interpret this of capital crimes directly and expressly forbidden in the law, not of all remote branches or lower degrees of sin, that may any way whatsoever be reduced to the principal crime, or indirectly come under the prohibition. For otherwise it would not be true, that all sins, forbidden in the Decalogue, brought men under public penance; since there are some transgressions only conceived in the heart, and never completed in outward action,^b which though they might be great breaches of the law, yet they could not come under public censure, but were to be cured by private repentance.

SECT. IV.—*A particular Enumeration of the great Crimes against the 1st and 2d Commandments. Of Idolatry, and the several Species and Branches of it.*

Supposing, therefore, that there were many great crimes against every precept of the moral law, which might bring men under ecclesiastical censure, and public penance, we

Tertia actio est pœnitentiæ, quæ pro illis peccatis subeunda est, quæ Legis decalogus continet : et de quibus apostolus ait, 'Qui talia agunt, regnum Dei non possidebunt.' (Bened. 1700. v. p. 945. F.)

^s Dall. de Conf. Auricul. lib. iv. c. xx. p. 431. Id de solis capitalibus delictis diserte in decalogo vetitis est accipiendum. Nam id, si latius de quibusvis in decalogo quomodocumque vetitis sumatur, evidenter falsum erit, quum constet, non modo, quæ hodie ab adversariis venialia dicuntur, sed et alia multo plura, quæcumque scilicet a veteribus inter capitalia minime numerabantur, publicæ pœnitentiæ nequaquam olim fuisse obnoxia.

^b Augustin. Hom. xlv. de Verb. Domin. c. v. ap. Dall. loc. cit. Ita accipiendum esse (inquit Dallæus) hoc Augustini dictum, ipse alibi clare docet; dum diversa peccatorum, qui ex peccato per gratiam Christi resurgunt, genera persequens; primo loco eos ponit, qui peccatum intus in corde habent; in facto nondum habent. Isti sane, si proprie et in genere loquendum est, in decalogum peccarunt. Eos tamen Augustinus publicæ pœnitentiæ minime subicit, sed sine ea sanari apertissime docet, dum hujus generis peccatorem filiæ archisynagogi mortuæ, nec dum de secretis parietibus in publicum elatæ, et ibi intus a Christo suscitata comparans, ait: 'Nondum accessit corpore, consensit in corde; mortuum intus habet; nondum extulit. Et ut fit, ut novimus, ut quotidie homines in se experiuntur, aliquando audito verbo Dei, tamquam Domino dicente, "Surge," condemnatur consensus ad iniquitatem; respiratur in salutem atque justitiam. Surgit mortuus in domo, reviviscit cor in cogitationis secreto. Facta est ista resurrectio animæ mortuæ intus intra latebras conscientiæ, tamquam intra domesticos parietes, cetera. (Bened. 1700. vol. v. p. 362. C.)

will now proceed in the order of the Decalogue, to consider the nature, and kinds, and punishment of them. The great crimes against the first and second Commandments (which were commonly joined together) were comprised under the general names of apostasy and irreligion; which comprehended the several species of idolatry; blaspheming and denying Christ in time of persecution; using the wicked arts of divination, magic, and enchantments; and dishonouring God by sacrilege and simony; by heresy and schism; and other such profanations and abuses, corruptions and contempts, of his true religion and service. All these were justly reputed great crimes, and ordinarily punished with the severest ecclesiastical censures.

SECT. V.—*Of the Sacrificati and Thurificati, or such as fell into Idolatry by offering Incense to Idols, and partaking of the Sacrifices.*

Of idolaters, there were several sorts. Some went openly to the temples, and there offered incense to the idols, and were partakers of the sacrifices. These were distinguished by the name of ‘Sacrificati’ and ‘Thurificati,’ as we find them often styled in Cyprian;¹ who speaks of them “as defiling both their hands and mouths by the sacrilegious touch:” meaning their hands by offering incense, and their mouths by eating of the sacrifices. And of these also there were several degrees. Some, as soon as ever a persecution was set on foot, before they were called upon, or had any violence offered to them, went voluntarily to the temples, and offered sacrifice of their own accord; whilst others held out a long time against torture, and only sacrificed when the utmost necessity compelled them. Cyprian makes a great difference^k between

¹ Cyprian. Epist. xv. al. xx. ad Cler. Roman. p. 43. (p. 199, edit. Amstel.) Qui sacrilegis contactibus manus suas atque ora maculassent.—Id. Epist. iv. al. lii. ad Anton. p. 108. (p. 246, edit. Amstel.) Placuit sacrificatis in exitu subveniri, quia exomologesis apud inferos non est. (Oxon. 1682. p. 108.)

^k Cyprian. ibid. p. 106. (p. 245, cit. edit.) Nec tu existimes, frater carissime, sicut quibusdam videtur, libellaticos cum sacrificatis æquari oportere; quando inter ipsos etiam, qui sacrificarint, et conditio frequenter et causa diversa sit. Neque enim sequandi sunt, ille qui ad sacrificium nefandum statim voluntate

these two sorts of lapsers ; as he does also between those who went not only themselves, but compelled their wives and children, and servants, and friends, to go and sacrifice with them ; and those who, to deliver their families and friends from danger, went and exposed themselves alone ; by this means protecting not only their own families, but also many Christian brethren and strangers, that were banished, and had fled to take shelter in their houses, who were as so many living intercessors to God for them. They who did thus, he thinks, were much more excusable than those who both went voluntarily, and by their counsel and authority compelled many others to go along with them. Whose crimes he therefore elegantly describes and aggravates after this manner¹ in his book

prosiluit ; et qui reluctatus et congressus diu ad hoc funestum opus necessitate pervenit : ille qui et se et omnes suos prodidit ; et qui ipse pro cunctis ad dis-crimen accedens, uxorem et liberos, et domum totam periculi sui perfuntione protexit, ille qui inquilinos vel amicos suos ad facinus compulsi, et qui inquilinis et colonis pepercit, fratres etiam plurimos, qui extorres et profugi recedebant, in sua tecta et hospitia recepit, ostendens et offerens Domino multas viventes et incolumes animas, quæ pro una saucia deprecantur. Vide sis Petri Alexandr. can. i. ii. iii. apud Bevereg. Synodic. tom. ii. p. 8, 9.

¹ Cyprian. de Lapsis, (1682. p. 124.) (p. 89, 90, edit. Amstelod. 1700.) Non expectaverunt, ut adsunderent apprehensi, aut interrogati negarent. Ante aciem multi victi, sine congressione prostrati ; nec hoc sibi reliquerunt, ut sacrificare idolis viderentur inviti. Ultro ad forum currere, ad mortem sponte properare ; quasi hoc olim cuperent, quasi amplecterentur occasionem datam, quam semper optassent. Quid illi, qui a magistratibus vespera urgente dilati sunt, quod ne eorum differretur interitus, etiam rogaverunt ? Quam vim potest talis obtendere, qua crimen suum purget ; quum vim magis ipse fecerit, ut periret ! Nonne quando ad capitulum sponte ventum est, quando ultro ad obsequium diri facinoris accessum est, labavit gressus, caligavit adspectus, tremuerunt viscera, brachia conciderunt ? Nonne sensus obstupuit, lingua hæsit, sermo defecit ? Stare illic potuit Dei servus, et loqui, et renuntiare Christo ; qui jam diabolo renuntiasset et sæculo ? Nonne ara illa, quo moriturus accessit, rogos illi fuit ? Nonne diaboli altare, quod fœtore tetro fumare ac redolere conspexerat, velut funus et bustum vitæ suæ horrere ac fugere debebat ? Quid hostiam tecum miser, quid victimam supplicaturus imponis ? Ipse ad aras hostia, victima ipse venisti. Immolasti illic salutem tuam ; spem tuam, fidem tuam funestis illis ignibus concremasti. Ac multis proprius interitus satis non fuit, hortamentis mutuis in exitium suum populus impulsus est : mors invicem letali poculo propinata est. Ac ne quid deesset ad criminis cumulum, infantes quoque parentum manibus vel impositi vel attracti ; amiserunt parvuli, quod in primo statim nativitatis exordio fuerant consequuti. Nonne illi, quum judicii dies venerit, dicent, ‘ Nos nihil fecimus, nec derelicto cibo et poculo Domini ad

'de Lapsis:.' "They did not stay till they were apprehended, to go to the Capitol; but denied the faith before any question was asked them about it. They were conquered before the fight, and fell without any engagement. They ran to the forum of their own accord, and made haste to give themselves the mortal wound, as their own voluntary act, without compulsion: as if they had desired this long before, and now only embraced the opportunity that was given them, which they always wished for. How was it, that when they went so readily to the Capitol to do this wicked act, their legs did not sink under them, and their eyes grow dim, and their bowels tremble, and their arms fall down, and their senses become stupid, and their tongue falter, or cleave to the roof of their mouth, and their words fail them? Could the servant of God stand there, and speak, and renounce Christ, who had before renounced the Devil and the world? Was not that altar, whither he came to die, more like his funeral pile? Ought he not to have abhorred and fled from the altar of the Devil, as his coffin or his grave, when he saw it smoke and fume with a stinking smell? To what purpose, thou miserable wretch, didst thou bring thy oblation, and put thy sacrifice upon the altar? Thou thyself wert the victim, thou thyself the sacrifice and burnt-offering. There thou didst sacrifice thy salvation, and burn thy faith and thy hope in those abominable fires. But many were not content with their own destruction; the people provoked one another into ruin by mutual calls and exhortations, and the cup of death was handed round by every man to his neighbour. And that nothing might be wanting to consummate the crime, parents carried their children in their arms, or led them after them, that their little ones might lose what they had gained in their first birth. Will not they say, when the day of judgment comes, We did nothing ourselves; we did not leave the bread and cup of the Lord, to run of our own accord to those profane contagions: it was the treachery of others that destroyed us, our parents were

profana contagia sponte properavimus: perdidit nos aliena perfidia, parentes sensimus parricidas. Illi nobis ecclesiam matrem, illi patrem Deum negaverunt; ut dum parvi et improvidi, et tanti facinoris ignari, per alios ad consortium criminum jungimur, aliena fraude caperemur.'

guilty of parricide towards us. They deprived us of the privilege of having the Church for our mother, and God for our father; that whilst we were little, and unable to care for ourselves, and ignorant of so great a wickedness, we should be taken and betrayed by other men's frauds, being by them made partners in their offences." Thus far Cyprian, aggravating the crimes of those who showed such a forwardness to commit idolatry, and apostatize with greediness and delight.

Now as these were some of the highest degrees of idolatry, so the Church put a remarkable difference between them and others in her punishments, setting a more peculiar mark or note of distinction upon them in her censures. There are several canons in the Council of Ancyra, which plainly show this distinction. The fourth canon¹ orders, "That they who were compelled to go to an idol-temple, if they went with a pleasing air, and in a festival habit, and took share of the feast with unconcernedness; that they should do six years' penance, one as hearers only, three as prostrators, and two as co-standers to hear the prayers, before they were admitted to full communion again. But if they went in a mourning habit to the temple, and wept all the time they eat of the sacrifice, then four years' penance should be sufficient to restore them to perfection." The eighth canon² orders, "those who repeated their crime by sacrificing twice or thrice, to do a longer penance:" for seven years is appointed to be their term of discipline. And by the ninth canon,³ "if any not only sacri-

¹ Concil. Ancyra. c. iv. v. Περὶ τῶν πρὸς βίαν θυσάντων, ἐπὶ δὲ τούτοις καὶ τῶν δειπνησάντων εἰς τὰ εἰδῶλα, ὅσοι μὲν ἀπαγόμενοι, καὶ σχήματι φαιδροτέρῳ ἀνῆλθον, καὶ ἰσθῆτι ἐχρήσαντο πολυτελεστέρας, καὶ μετέσχον τοῦ παρασκευασθέντος δείπνου ἀδιαφόρως· ἔδοξεν ἐνιαυτὸν ἀκροᾶσθαι, ὑποπεσεῖν δὲ τρία ἔτη, εὐχῆς δὲ μόνης κοινωνῆσαι ἔτη δύο, καὶ τότε ἐλθεῖν ἐπὶ τὸ τέλειον· ὅσοι δὲ ἀνῆλθον μετὰ ἰσθῆτος πενθικῆς, καὶ ἀναπεσόντες ἔφαγον μεταξύ δι' ὅλης τῆς ἀνακλίσεως δακρύνοντες, εἰ ἐπλήρωσαν τὸν τῆς ὑποπτώσεως τριετῆ χρόνον, χωρὶς προσφορᾶς δεχθήτωσαν. (Labb. i. 1457.)

² Can. viii. Οἱ δὲ δεῦτερον καὶ τρίτον θύσαντες μετὰ βίας, τετραετίαν ὑποπεσέτωσαν, δύο δὲ ἔτη χωρὶς προσφορᾶς κοινωνησάτωσαν, καὶ τῷ ἐβδόμῳ τελείως δεχθήτωσαν.

³ Can. ix. "Ὅσοι δὲ μὴ μόνον ἀπέστησαν, ἀλλὰ καὶ ἐπανέστησαν καὶ ἠνάγκασαν ἀδελφοὺς, καὶ αἵτιοι ἐγένοντο τοῦ ἀναγκασθῆναι· οὗτοι ἔτη μὲν τρία τὸν τῆς ἀκροάσεως δεξάσθωσαν τόπον, ἐν δὲ ἄλλῃ ἑξαετία τὸν τῆς ὑποπτώσεως·

ficed themselves, but also compelled their brethren, or were the occasion of compelling them, then they were to do ten years' penance, as guilty of a more heinous wickedness," according as we have heard Cyprian represent it. But if any did neither sacrifice, nor eat things offered to idols, but only their own meat on an heathen festival in an idol-temple, they were only confined to two years' penance, by the seventh canon⁴ of the same Council. These canons chiefly respect such as transgressed after some violence or force put upon them, by torture, or banishment, or imprisonment, or confiscation, or the like necessity in any other kind of trial. But if any voluntarily apostatized, and prevaricated without compulsion, a severer punishment was laid upon them: for by the rules of the Council of Nice^m they were to undergo twelve years' penance, before they were perfectly restored again to full communion. And the same term is appointed by the second Council of Arles,ⁿ which refers to the Nicene Canon. The Council of Valence in France^o goes a little farther, and obliges them to do penance all their lives, and allows them absolution only at the hour of death, which they were to expect more fully from the hands of God only, who alone had the absolute power of it, and was infinite in mercy, that no one should

ἄλλον δὲ ἐναντὶν κοινωνησάτωσαν χωρὶς προσφορᾶς· ἵνα τὴν δεκαετίαν πληρῶσαντες, τοῦ τελείου μετάσχωσιν.

⁴ Can. vii. Περὶ τῶν συνεστιαθέντων ἐν ἑορτῇ ἔθνικῇ ἐν τόπῳ ἀφωρισμένῳ τοῖς ἔθνεσιν, ἴδια βρώματα ἐπικομισαμένων καὶ φαγόντων· ἔδοξε διετίαν ὑποπεσόντας δεχθῆναι.

^m Concil. Nicæn. can. xi. (vol. i. p. 33.) Περὶ τῶν παραβάντων χωρὶς ἀνάγκης, ἢ χωρὶς ἀφαιρέσεως ὑπαρχόντων, ἢ χωρὶς κινδύνου, ἢ τινος τοιούτου, δ' γέγονεν ἐπὶ τῆς τυραννίδος Λικινίου· ἔδοξε τῇ συνόδῳ, κὰν ἀνάξει ἦσαν φιλανθρωπίας, ὅμως χρηστεύεσθαι εἰς αὐτούς· ὅσοι οὖν γνησίως μεταμέλονται, τρία ἔτη ἐν ἀκρομήνοις ποιήσουσιν οἱ πιστοὶ, καὶ ἑπτὰ ἔτη ὑποπεσούνται· δύο δὲ ἔτη χωρὶς προσφορᾶς κοινωνήσουσι τῷ λαῷ τῶν προσευχῶν.

ⁿ Concil. Arelat. li. c. xi. (vol. iv. p. 1012.) De his, qui in persecutione prævaricati sunt, si voluntarie fidem negaverint, hoc de iis Nicæna synodus statuit, ut quinque annos inter catechumenos exigant, et duos inter communicantes: ita ut communionem inter poenitentes non præsumant: in potestate tamen vel arbitrio sit episcopi, ut si eos ex animo errorem deflere et agere poenitentiam viderit, ad communionem pro ecclesiastica humanitate suscipiat.

^o Concil. Valent. c. iii. Acturi poenitentiam, usque in diem mortis, non sine spe tamen remissionis, quam ab eo plene sperare debebunt, qui ejus largitatem et solus obtinet, et tam dives misericordia est, ut nemo desperet. (Labb. ii. 905.)

despair. Agreeable to which is that rule of Siricius,^p that apostates should do penance all their lives, and be reconciled only at the hour of death. The council of Eliberis goes beyond this, and denies such apostates communion at the very last extremity,^q because this was the great and principal crime above all others. And sometimes adultery and murder were a sort of accessories or concomitants of this idolatry, as many times it was in the heathenish games and shews, which were made up of idolatry, adultery, and murder: upon which account this same council has another canon,^r which orders, "That if any Christian took upon him the office of a Flamen or Roman priest, and therein offered sacrifice, doubling and trebling his crime by murder and adultery, he should not be received to communion at the hour of death." Nor need we wonder at this severity, since Cyprian assures us "That before his time^s many of his predecessors in the province of Africk refused to grant communion to adulterers to the very last; and yet they did not divide communion from their fellow bishops who practised otherwise." And he says farther, concerning voluntary deserters and apostates,^t who continued in rebellion all their lives, and only desired penance when some infirmity seized them, "that they were cut off from all hopes of communion and peace; because it was not repentance for their fault, but the fear of approaching death that made them desire a reconciliation; and they were not worthy to receive

^p Siric. Epist. i. ad Himerium, c. iii. Apostatis, quamdiu vivunt, agenda poenitentia est, et in ultimo fine suo reconciliationis gratia tribuenda. (Labb. ii. 1018.)

^q Concil. Illiber. can. i. Placuit ut, qui post fidem baptismi salutaris, adulta aetate, ad templum idololatraturus accesserit, et fecerit, quod est crimen principale (quia est summum scelus,) nec in fine eum communionem accipere. (L. i. 969.)

^r Concil. Illiber. can. ii. Flamines, qui post fidem lavaeri et regenerationis sacrificaverunt; eo quod geminaverint scelera, accedente homicidio, vel tripliciter facinus, coherente moechia, placuit eos nec in fine accipere communionem. (Labb. i. 969.)

^s Cyprian. Epist. lii. al. lv. ad Antonian. p. 110. (p. 248. lin. 1. seq. edit. Amstelod.)

^t Cypr. ibid. (p. 248, cit. edit.) Poenitentiam non agentes, nec dolorem delictorum suorum toto corde et manifesta lamentationis suae professione testantes, prohibendos omnino censuimus a spe communicationis et pacis, si in infirmitate atque periculo coeperint deprecari; quia rogare illos non delicti poenitentia, sed mortis urgentis admonitio compellit; nec dignus est in morte accipere solatium, qui se non cogitavit esse moriturum. (Oxon. 1682. Epist. p. 111.)

that comfort at their death, who would not consider all their life before that they were liable to die." The first Council of Arles made a like decree," "That such as voluntarily apostatized, and never after sued to the Church, nor desired to do penance all their lives till some infirmity seized them,—should not be received to communion, unless they recovered, and brought forth fruits worthy of repentance." These were the rules by which the ancient discipline was regulated and conducted in reference to such idolaters and apostates, as actually defiled themselves by offering sacrifice to idols, whether it were by force or by choice; whether they lapsed singly, or drew others into the same crime with themselves; and whether they returned immediately and became penitents, or continued apostates and rebels: according to the difference of which circumstances, different degrees of punishment were laid upon them.

SECT. VI.—*Of the Libellatici; wherein their Idolatry consisted.*

Another sort of those who lapsed into idolatry, and were charged with denying their religion, were called 'Libellatici,' from certain libels or writings, which they either gave to the heathen magistrates in private, or received from them, to be excused doing sacrifice in publick. Baronius^x thinks there was but one sort of these 'Libellatici,' and that they all expressly denied Christ, either by themselves or others; but being ashamed to sacrifice or deny him in public, they made a private renunciation, and for a bribe got a libel of security from the magistrate, to indemnify and secure them from being sought after, or called upon to sacrifice in public. But other learned men^y

^u Conc. Arelat. I. c. xxiii. De his, qui apostatant, et numquam se ad ecclesiam repræsentant, nec quidem pœnitentiam agere quærunt, et postea infirmitate arrepti petunt communionem, placuit eis non dandam communionem, nisi revaluerint, et egerint dignos fructus pœnitentiæ. (Labb. i. 1429.)

^x Baron. an. ccliii. n. xx. (xviii.) Libellaticos eos esse, significare tradunt, qui, quum sacrificium offerre publice cogerentur, se data pecunia redemissent. —Ibid. n. xix. Quibus omnibus exprimere videntur, libellatici caussam fuisse hujusmodi, ut, etsi minus quis sacrificium diis offerret, tamen aliqua per se vel per alium edita professione fidem negaret: ne vero, sicut ceteri, traheretur ignominiose ad aram, id pecunia redimebat.

^y Albaspin. Observat. lib. i. c. xxi. § iv. v. vi. vii. (p. 97, 98, 99, edit. Helme- stad. 1672.) Cave, Prim. Christ. lib. iii. c. v. p. 384. Suicer. Thesaur. tom. ii. p. 240, 241.

observe some distinction among them : and indeed there seem at least to have been three sorts of them. Some expressly gave it under their hands to the magistrate, that they were no Christians, denying their religion in word or writing, as others did in action ; professing they were ready to sacrifice, if the magistrate should call them to it. Cyprian often speaks of these, and puts them in the same class with those that actually sacrificed. " Let not those flatter themselves (says he,)* as if they were excused from doing penance, who although they did not defile their hands with the abominable sacrifices, yet defiled their consciences by a libel. A Christian that professes he denies his religion, is witness against himself, that he abjures what he was before ; he owns in words to have done, whatever the other did in real action." Another sort did neither abjure, nor sign any libel of abjuration themselves, but sent either an heathen friend, or a servant to sacrifice or abjure in their names, and thereby procure them a libel of security from the magistrate, as if they had done what the others did for them. And indeed the church so interpreted it, and reckoned these no less criminals than the former. The Roman clergy in their letter to Cyprian, condemn them both alike,* saying, " That this latter sort, though they were not present at the fact of delivering the libel to the magistrate, yet they were in effect present by commanding it to be written and

* Cypr. de Lapsis, (1682. p. 133.) (p. 95, edit. Amstelod. 1700.) Nec sibi, quo minus agant poenitentiam, blandiantur, qui etsi nefandis sacrificiis manus non contaminaverunt, libellis tamen conscientiam polluerunt. Et illa professio denegantis ; contestatio est Christiani, quod fuerat abnuentis : fecisse se dixit, quicquid alius faciendo commisit. Vid. etiam Epist. Cler. Rom. ad Cyprian. ep. xxx. al. xxxi. p. 57. (p. 210, edit. Amstel.) Se ipsos infideles illicita nefariorum libellorum professione prodiderant, quando [quo] non minus, quam si ad nefarias aras accessissent, hoc ipso, quod ipsum contestati fuerant, tenerentur.

* Cyprian. ibid. Sententiam nostram dilucida expositione protulimus... etiam adversus illos, qui accepta fecissent, licet presentes, quum fierent, non adfuissent, quum presentiam suam utique ut sic scriberentur, mandando fecissent. Non est enim immunis a scelere, qui, ut fieret, imperavit ; nec est alienus a crimine, cujus consensu, licet non a se admissum crimen, tamen publice legitur ; et quum totum fidei sacramentum in confessione Christi nominis intelligatur esse digestum ; qui fallaces in excusatione pręstigias quęrit, negavit : et qui vult videri propositis adversus evangelium vel edictis vel legibus satisfecisse, hoc ipso jam paruit, quod videri paruisse se voluit. (Oxon. 1682. Epist. p. 57.)

presented. For he that commands a sin to be done, cannot discharge himself of the guilt of it; nor can he be innocent of the crime, by whose consent it is publicly read in court as done, though he was not actually the doer of it. Seeing the whole mystery of faith is summed up in confessing the name of Christ, he that seeks by any fallacious tricks to excuse himself from such profession, does plainly deny it: and he, that when edicts and laws are published against the Gospel, would be thought to comply with and observe them, does in that very thing obey them, in that he would have the world believe that he does obey them." The canons of Peter, bishop of Alexandria, also take notice of this sort of libellers, and appoint them their punishment, making this difference between a master who compelled his slave to go and sacrifice for him, and the slave who went at his command: "The slave was^b to do one year's penance; but the master is enjoined three years, because he dissembled, and because he compelled his fellow-servant to sacrifice: for we are all servants of the Lord, with whom is no respect of persons." Besides these, there was another sort of libellers, who finding that the fury of the judge was to be taken off by a bribe, they went to him and told him plainly, they were Christians, and could not sacrifice; and therefore desired him to give them a libel of security, for which they would give him a suitable reward. Cyprian speaking of this sort of Libellers, brings them in thus apologising for themselves: "I had before^c both read and learnt from the preach-

^b Petri Alex. can. vi. (ap. Bevereg. tom. ii. p. 12.) Τοῖς δὲ δούλους Χριστιανοὺς ἀνθ' ἑαυτῶν ὑποβεβληκόσιν, οἱ μὲν δοῦλοι ὡς ἂν ὑποχείριοι ὄντες καὶ τρόπον τινὰ καὶ αὐτοὶ φυλακισθέντες ὑπὸ τῶν δεσποτῶν, καταπειληθέντες ὑπ' αὐτῶν, καὶ διὰ τὸν φόβον αὐτῶν εἰς τοῦτο ἐληλυθότες καὶ ὀλισθήσαντες, ἐνιαντῶ τὰ τῆς μετανοίας ἔργα δείξουσιν, μανθάνοντες τοῦ λοιποῦ, [ὡς δοῦλοι Χριστοῦ,] ποιεῖν τὸ θέλημα τοῦ Χριστοῦ καὶ φοβεῖσθαι αὐτόν.—Can. vii. Οἱ δὲ ἐλεύθεροι, ἐν τρισὶν ἔτεσιν ἐξετασθήσονται ἐν μετανοίᾳ, καὶ ὡς ὑποκρινόμενοι, καὶ ὡς καταναγκάσαντες τοὺς ὁμοδόλους θῆσαι, ἅτε δὴ παρακούσαντες τοῦ ἀποστόλου τὰ αὐτὰ θέλοντος ποιεῖν τοὺς δεσπῆτας τοῖς δούλοις, ἀνιέντας τὴν ἀπειλὴν, εἰδότες, φησὶν, ὅτι καὶ ἡμῶν καὶ αὐτῶν ὁ κύριός ἐστιν ἐν οὐρανοῖς, καὶ προσωποληψία παρ' αὐτῶ οὐκ ἔστιν. (Labb. i. 957, 8.)

^c Cyprian. Epist. lii. al. lv. ad Anton. (1682. p. 107.) (p. 245, edit. Amstelod.) Ego prius legeram, et episcopo tractante cognoveram, non sacrificandum idolis, nec simulacra servum Dei adorare debere; et idcirco ne hoc facerem, quod non licebat, (quum occasio libelli fuisset oblata, quem nec ipsum acciperem, nisi

ing of the bishop, that the servant of God ought not to sacrifice to idols, nor to worship images: and therefore that I might not do that which is unlawful, (when the opportunity of getting a libel offered itself, which yet I would not have accepted, had not the occasion presented itself,) I went to the magistrate, or employed another to go in my name, and tell him, that I was a Christian, and that it was unlawful for me to sacrifice, or come near the altars of the devils; that therefore I would give him a reward to excuse me from doing that which I could not lawfully do." Cyprian does not wholly excuse these; but adds, that though their hands were not polluted with sacrifice, nor their mouths with eating things offered to idols, yet their conscience was defiled. But forasmuch as they seemed rather to sin out of ignorance than maliciousness, he thinks their case a little more favourable than those that sacrificed; and therefore since some difference was made even among those that sacrificed, he thinks a greater allowance should be made to these, though he does not particularly tell us what term of penance was imposed upon them.

SECT. VII.—*Of those who feigned themselves mad, to avoid sacrificing.*

Not much unlike this sort of libellers, were they who counterfeited madness in times of persecution, to get themselves excused by this means from being questioned, or called upon to offer sacrifice. Some of them would go to the very altars, and make as if they intended to sacrifice, or subscribe the abjuration; but then they evaded the thing by pretending to fall into a sort of epileptic fit, which inclined the magistrates to excuse them, and let them escape; as David by such an artifice escaped from Achish, when he intended to kill him. Now this was looked upon as mere dissimulation and collusion, and only a more artful way of denying their religion. And there-

ostensa fuisset occasio) ad magistratum vel veni, vel alio adeunte mandavi: Christianum me esse, sacrificare mihi non licere, ad aras diaboli me venire non posse, dare me ob hoc præmium, ne quod non liceat faciam. Vid. Celerin. Epist. xxi. ibid. p. 46. (p. 201.) Etecusa pro se dona numeravit, ne sacrificaret; sed tantum adscendisse videtur usque ad Tria Fata, et inde descendisse.

fore by the penitential rules of Peter, bishop of Alexandria,^d such, though they neither sacrificed themselves, nor suborned others to sacrifice for them, were subjected to penance for six months; because they, in some measure, denied their religion, and made a shew of countenancing idolatry both by their cowardice and dissimulation.

SECT. VIII.—*Of Contributors to Idolatry. Of the Flamines Munerarii and Coronati. What they were, and how guilty of Idolatry.*

And indeed it was not only the bare commission of idolatry, that subjected men to ecclesiastical censure; but all promoters, encouragers, and compilers with idolatrous rites were reputed guilty of idolatry in some degree, and accordingly proceeded against as betrayers of their religion. Thus in the council of Eliberis there is a canon against such Christians, as took upon them the office of a Flamen or heathen priest; part of whose office was to exhibit the ordinary games or shows to the people. And if they did this, though they abstained from sacrificing, they were to do penance all their lives, as encouragers of idolatrous rites, and only^e be admitted to communion at the hour of death, after sufficient evidences of a true repentance. Some learned persons mistake the sense of this canon, understanding the words ‘munus dare,’ as if they meant giving money to the judge to excuse them from sacrificing: which would be the same crime as the libellers were guilty of: whereas this canon speaks not of such lapsers, but of those who took upon

^d Petr. Alex. can. v. (i. 957.) Τοῖς δὲ καθυποκριναμένοις κατὰ τὸν ἐπιληπτευσάμενον Δαβὶδ, ἵνα μὴ ἀποθάνῃ, οὐκ ὄντα ἐπιληπτον· καὶ μὴ γυμνῶς ἀπογραφάμενοις τὰ πρὸς ἄρνησιν, ἀλλὰ διαπαίξασιν κατὰ πολλὴν στενοχωρίαν, ὡς ἂν παιδία βουλευτικὰ ἔμφρονα ἐν παιδίοις ἄφροσι, τὰς τῶν ἐχθρῶν ἐπιβουλὰς, ἥτοι ὡς διελθόντες βωμοδὲς, ἥτοι ὡς χειρογραφῆσαντες, ἥτοι ὡς ἀνθ' ἑαυτῶν βαλόντες ἐθνικοδὲς, εἰ καὶ τισιν αὐτῶν συνεχώρησάν τινες τῶν ὁμολογησάντων, ὡς ἤκουσα, ἐπεὶ μάλιστα κατὰ πολλὴν εὐλάβειαν ἐξέφυγον αὐτόχειρες γενέσθαι τοῦ πυρὸς καὶ ἀναθυμιάσεως τῶν ἀκαθάρτων δαιμόνων· ἐπεὶ τοίνυν ἔλαθεν αὐτοὺς ἄγνοια τοῦ πράξαντος, ὅμως ἐξάμηνος αὐτοῖς ἐπιτιθήσεται τῆς ἐν μετανοίᾳ ἐπιστροφῆς.

^e Concil. Illiber. c. iii. Flamines qui non immolaverint, sed munus tantum dederint, eo quod se a funestis abstinuerunt sacrificiis, placuit in fine eis præstari communionem, acta tamen legitima poenitentia. (Labbe. i. 971.)

them the office of a Flamen, whose business among other things was to give or exhibit, at his own, or else at a public expense, the 'munera,' that is, the ordinary games or shows and pastimes to the people. For these were called 'munera,'^f as appears from the use of the term in the civil law: and they that gave them, were thence termed 'Munerarii,' the masters of the games, or the entertainers; who kept beasts and men to fight in the amphitheatre for the entertainment of the people: as may be seen in Tertullian,^g and Seneca, and Suetonius,^h and others, who speak according to the propriety of the Latin tongue. Now because these games were held chiefly on the heathen festivals, and in honour of their gods, and were full of idolatrous rites, as well as cruelty and impurity; a Christian could not exhibit them to the people, without incurring the crime of idolatry, at least indirectly by promoting and encouraging the practice of it. And, for that reason, this canon is so severe against those who furnished out these shows at their own expenses. A lower degree of this crime was, when such a Flamen or priest neither offered sacrifices, nor exhibited the games at his own expense, but only wore the crown whichⁱ was usual in such solemnities: which being a badge of idolatry, for that reason, by another canon of that council, two years' penance, as a moderate punishment in comparison of the former, is imposed upon them that were so far concerned in it. But it may be noted that Tertullian's invective against the soldier's crown or garland, in his book 'de Corona Militis,' has no relation to this matter. For the wearing of such a crown seems to have had no concern in religion, but to be a mere

^f Cod. Theod. lib. ix. tit. xviii. leg. i. Si quis ejusmodi reus fuerit oblatus, posteaquam super crimine patuerit, servus quidem vel libertate donatus, bestiis primo quoque munere objiciatur.—Gothofred. in loc. Sane qui ad bestias dati, depugnaturi cum his inducebantur stato spectaculi die: quod 'munus' dictum, et vero hac quoque lege dicitur.—(Lugdun. 1665. vol. iii. p. 156.)

Prisca fides taceat: nam post tua munera, Cæsar,

Hæc jam feminea vidimus acta manu.—Martial. de Spect. Epigr. vi.

^g Tertul. Apolog. c. xliv. De vestris semper munerarii noxiorum greges pascunt. (Paris, 1664. p. 34.)

^h Sueton. Vit. Domit. c. x. Threcem Mirmilloni parem, munerario imparem.

ⁱ Conc. Illiberit. c. lv. Sacerdotes, qui tantum coronam portant, nec sacrificant, nec de suis sumptibus aliquid ad idola præstant, placuit post biennium accipere communionem. (Labbe. i. 976.)

civil act done in honour of the emperors on such days as they gave their largesses or donations to the soldiers. The laurel was only an ensign of victory; and though it was dedicated to Apollo, yet that did not make the use of it unlawful: otherwise the use of the four elements, and many other trees, and plants, and animals, had all been unlawful, because, as St. Austin^k shows, they were dedicated to the gods also. Therefore learned men^l censure Tertullian here, as overstraining his argument upon this point, upon his new principles of Montanism, by which he also denied it to be lawful for a Christian to fly in time of persecution, or to bear arms in defence of the empire;^m contrary to his former judgment in his Apology, where he tells the emperor that his army was full of the disciples of Jesus; and mentions the famous undertaking of the Thundering Legion with a great eulogium and commendation. So that this new severity of his, in condemning the Christian soldiers for wearing a laurel-crown, must be reckoned among those peculiarities which he imbibed after he was fled over from the Church, to the school of Montanus; since we no where find soldiers condemned for this in the Catholic Church, much less brought under any discipline or penance for the use of it.

SECT. IX.—*How the Office of the Duumvirate made Men guilty of Idolatry, and how it was punished.*

But there is another canon in the Council of Eliberis, which orders, "That all Christians who took upon them the city-magistracy or office, called the Duumvirate, should be denied communion for the whole year in which they held the office," as

^k Augustin. Epist. cliv. ad Publicolam. (pag. 703. d. p. 704, 705, edit. Basil. 1669.)

^l Baron. ad ann. cci. n. xvi. tot. Du Pin, Bibliothec. vol. i. p. 95. Tertullien semble l'étendre un peu trop à la rigueur des choses, qui se peuvent excuser, comme par exemple, de porter les armes pour la défense de l'empire, d'orner ses maisons de flambeaux et de lauriers en l'honneur des princes, de se servir de manières de parler usitées, quoi qu'elles aient quelque rapport à l'idolatrie. (Utrecht, 1731, p. 102.) Sellar, Life of Tertull. p. 221.

^m Tertull. de Coron. Milit. c. xi. p. 107. B. Ut ipsam causam coronæ militaris aggrediar, puto prius conquiendum, an in totum Christianis militia conveniat, &c.

ⁿ Concil. Illiber. c. lvi. Magistratum uno anno, quo agit duumviratum, prohibendum placuit, ut se ab ecclesia cohibeat. (Labbe. i. p. 976.)

guilty of some offence against religion." No crime is mentioned, but idolatry is understood. For the grounds and reasons of this canon will be easily explained and understood from the account that is given of this office in the civil law. Where we learn, that the 'Duumviri' were the chief city-magistrates, otherwise called 'Primates Curiae,' chosen every year (for it was but an annual office); and it belonged to them, (as it did to the 'Flamines,' and the 'Pontifices,' or 'Sacerdotes Provinciarum,' and the prætors, and the governors of provinces, or ordinary judges,) to exhibit the 'spectacula,' or the games and shows to the people; as Gothofred^o shows from various laws of the Theodosian Code.^p And Tertullian not only observes the same, that the city-magistrates were the editors of these games; but that the shows themselves were founded in idolatry,^q and attended with many idolatrous ceremonies; which he makes use of as one argument why a Christian should not frequent them. And for this reason, the Council of Eliberis orders all Christians, who took upon them the office of the Duumviri, to be kept back from communion during the year they went through that office; because they could not exhibit these shows to the people, without encouraging and partaking in that idolatry, which was so closely annexed to them.¹

^o Gothofr. Paratitlon. ad cod. Theodos. lib. xv. tit. v. de spectac. Edebantur spectacula vel a magistratibus : 1. Duumviris, seu a curiarum primatibus viris, 2. vel a sacerdotibus provinciarum, 3. vel a prætoribus, 4. vel denique a iudicibus. (Lugdun. 1665, vol. v. p. 348.)

^p Vid. Cod. Theodos. lib. xii. tit. i. de decurionibus, leg. elxix. lib. xv. tit. v. de spectac. leg. i.

^q Tertull. de Spectac. c. xi. p. 78. A. Proinde Tituli, Olympia Jovi, quæ sunt Romæ Capitolina; item Herculi Nemææ, Neptuno Isthmia, ceteri mortuarii agones. Quid ergo mirum, si apparatus agonum idololatria conspurcat de coronis profanis, de sacerdotalibus præsidibus, de collegiariis ministris, &c.?—It, cap. xii. Hæ muneris origo. . . Et licet transierit hoc genus editionis ab honoribus mortuorum ad honores viventium, quæsturas dico et magistratus, et flamina et sacerdotia : quum tamen nominis dignitas idololatriæ crimine teneatur, necesse est quidquid dignitatis nomine administratur, communicet etiam maculas ejus, a qua habet causas, &c. (p. 78. C.)

¹ Ludorum celebrationes, inquit Lactantius, lib. vi. c. xx. deorum festa sunt.

SECT. X.—*How Actors and Stage-players, and Charioteers, and other Gamesters, and Frequenters of the Theatre and Circus were charged with Idolatry, and punished for it.*

And for the same reason, all actors and stage-players, and they who drove the chariots in the public games, and gladiators, and all who had any concern in the exercise or management of these unlawful sports, and all frequenters of them, were obliged either to quit these practices, or be liable to excommunication so long as they continued to follow them ; not only because a great deal of impurity and cruelty was committed in them, but also because they contributed to the maintenance of idolatry, which was an appendage of them. All these were comprised in the pomp and service of the Devil, which every Christian had renounced at his baptism ; and therefore when any one returned to them, he was charged as a renouncer of his baptismal covenant, and thereupon discarded, as an apostate and relapser, from Christian communion. Thus Cyprian being consulted by Eucratius,^r whether a stage-player might communicate, who continued to follow that dishonourable trade ; he answers, “That it was neither agreeable to the majesty of God, nor the discipline of the Gospel, that the modesty and honour of the Church should be defiled with so base and infamous a contagion.” The Council of Eliberis^s allows stage-players to be baptized, only upon condition that they renounced their arts, and entirely bid adieu to them : and if, after baptism, they returned to them again, they were to be cast out of the Church. The first Council of Arles^t has a like decree,—“That all public actors, belonging to the theatre, shall be denied communion,

^r Cyprian. Epist. lxi. al. ii. ad Eucratium, 3. (p. 171, edit. Amstelod.) Puto nec majestati divinæ nec evangelicæ disciplinæ congruere, ut pudor et honor ecclesiæ tam turpi et infami contagione fœdetur. (Oxon. 1682, p. 4.)

^s Conc. Illib. c. lxii. Si auriga et pantomimus credere voluerint, placuit, ut prius actibus suis renuntient, et tunc demum suscipiantur ; ita ut ulterius non revertantur. Qui si facere contra interdictum tentaverint, projiciantur ab ecclesia. (Labb. i. 977.)

^t Concil. Arlat. I. c. v. De theatricis et ipsos placuit, quamdiu agunt, a communione separari.

so long as they continue to act." And the third Council of Carthage^u supposes the sentence of excommunication to pass upon all such, when it says, "That actors, and stage-players, and all apostates of that kind, shall not be denied pardon and reconciliation, if they return unto the Lord." This implies,—that they were gone astray, and cast out of the Church for their crimes, since they needed pardon and reconciliation, to take off their censure and restore them. The first Council of Arles^x determines the same in the case of those who drove the chariots in the public games: that so long as they continued in that employment, they should be denied communion. Tertullian^y and others say expressly, "That these arts were part of those pomps and worship of Satan which men renounced in baptism." And it appears from a rule in the Constitutions^z, "That no charioteer, or gladiator, or racer, or curator of the public games, or practiser in the Olympic games, or minstrel, or harper, or dancer, was to be admitted to baptism, unless they immediately quitted these unlawful callings." And it was no less a crime to frequent the theatre, and be spectators of these idolatrous practices, as is noted in

^u Concil. Carth. III. c. xxxv. Ut scenicis atque histrionibus, ceterisque hujusmodi personis, vel apostaticis, conversis vel reversis ad Dominum, gratia vel reconciliatio non negetur. (Labb. ii. p. 1172.)

^x Concil. Arelat. I. c. iv. De agitatoribus, qui fideles sunt, placuit eos, quamdiu agitant, a communione separari.

^y Tertull. de Spectac. c. iv. (Paris. 1664, p. 74. C.) Quum aquam ingressi Christianam fidem in legis suæ verba profiteamur, renuntiassæ nos diabolo et pompæ et angelis ejus ore nostro contestamur. Quid erit summum atque præcipuum, in quo diabolus et pompæ et angeli ejus censeantur, quam idololatria? ex qua omnis immundus et nequam spiritus, ut ita dixerim, quia nec diutius de hoc. Igitur si ex idololatria universam spectaculorum paraturam constare constiterit, indubitate præjudicatum erit etiam ad spectacula pertinere renuntiationis nostræ testimonium in lavacro, quæ diabolo et pompæ et angelis ejus sint mancipata, scilicet per idololatriam.—Id. de Coron. Milit. c. xiii. p. 109. C. Universas causas enumeravimus; nec ulla nobiscum est: omnes alienæ, profanæ, illicitæ, semel jam in sacramenti testatione ejeratæ. Hæ enim erant pompæ diaboli et angelorum ejus, officia sæculi, honores, solemnitates, &c.—Salvian. de Provid. lib. vi. p. 197. (p. 208, edit. Rittersh. Noriberg. 1623.) See lib. xi. c. vii. § ii. vol. iii. p. 526.—Cyrill. Catech. Mystagog. i. n. iv. p. 527.

^z Constitut. lib. viii. c. xxxii. *Τῶν ἐπὶ σκηνῆς ἑάν τις προσεῖη ἀνὴρ, ἢ γυνή, ἢ ἡνίοχος, ἢ μονόμαχος, ἢ σταδιοδρόμος, ἢ λουδεμπιστής, ἢ Ὀλυμπικός, ἢ χοροαὐλῆς, ἢ κιθαριστής, ἢ λυριστής, ἢ ὁ τὴν ὄρχησιν ἐπιδεικνύμενος, ἢ κάπηλος, ἢ πανσάσθωσαν, ἢ ἀποβαλλέσθωσαν.* (Labb. p. 496. E.)

the same rule of the Constitutions.¹ Therefore, as an obstinate adherence to these things debarred catechumens from baptism, so it likewise excluded baptized persons or believers from the privilege of communion.

SECT. XI.—*Idol-Makers, their Crime and Punishment.*

Another way of contributing to the practice of idolatry, was the art or trade of making idols for the worshippers of them. Many Christians, who abhorred the worship of idols themselves, made no scruple to make idols for others, and live by this calling; which was reputed a very scandalous profession, tending indirectly and consequentially to the upholding and promoting of idolatry. For which reason, no man, professing this art, could be admitted to baptism, unless he promised to renounce it; as we learn from the author of the Constitutions.^a And what denied a man one sacrament, would also deny him the other. Tertullian calls such, “proctors and purveyors^b for idolatry;” inveighing against this and some other trades of the like nature. “When you help (says he) to furnish out the pomp, the priesthood, the sacrifices of idols, what can you be called but procurers for idols? All heinous sins, for the greatness of the danger attending them, ought to make us extremely cautious, to keep at a distance not only from them, but from all things that minister to the practice of them. For though a crime be committed by others, it is all one, if I am instrumental to the commission of it. By the same reason that I am forbidden to do it, I ought to take care that it be not done by my assistance. I must not be a necessary aid to

¹ Constitut. lib. viii. c. xxxii. Θεατρομανία ἐστὶ τις πρόσκειται . . . ἢ πανσάσθω ἢ ἀποβαλλέσθω.

^a Ibid. Εἰδωλοποιὸς προσίων, ἢ πανσάσθω ἢ ἀποβαλλέσθω.

^b Tertull. de Idol. c. xi. (Paris. 1664, p. 91. D.) Quum pompæ, quum sacerdotia, quum sacrificia idolorum . . . instruuntur, quid aliud quam procurator idolorum demonstraris? Nemo contendat, posse hoc modo omnibus negotiationibus controversiam fieri. Graviora delicta quæque, pro magnitudine periculi, diligentiam extendunt observationis, ut non ab his tantum abscedamus, sed ab iis per quæ fiunt. Licet enim ab aliis fiat, non interest, si per me. In nullo necessarius esse debeo alii, quum facit quod mihi non licet. Ex hoc quod vetor facere, intelligere debeo curandum mihi esse, ne fiat per me.

another in doing that, which I may not lawfully do myself." Upon these grounds, he concludes the trade of making idols to be unlawful, as well as the worship of them. And so did Clemens Alexandrinus,^c and Justin Martyr^d before him. Tertullian objects it as a great crime to Hermogenes,^e that he followed the trade of painting images.—But that which is most material to our purpose here, is his observation which he makes in his Book of Idolatry^f upon the punishment due to such as made a livelihood of this unlawful calling, that any one who followed it, ought not to have access to the house of God. For it was contrary to the faith which they had professed in baptism. "How have^g we renounced the Devil and his angels, if we still continue to make them? What divorce have we made from them, with whom we not only continue to live, but live upon them? What disagreement is there between us and them, to whom we are obliged for our maintenance and livelihood? Can you deny that with your tongue, which you confess with your hand? Can you destroy that in words, which you raise up in your actions? Preach one

^c Clem. Alex. Protreptic. ad gentes, (Oxon. 1715. vol. i. p. 54. line 8.) Καὶ γὰρ δὴ καὶ ἀπηγορεύεται ἡμῖν ἀναφανδὸν, ἀπατηλὸν ὀρίζεσθαι τέχνην· οὐ γὰρ ποιήσεις, φησὶν ὁ προφήτης, παντὸς ὁμοίωμα, ὅσα ἐν τῷ οὐρανῷ, καὶ ὅσα ἐν τῇ γῇ κάτω.

^d Justin. Dial. cum Tryph. p. 321. Εἶπατε γάρ μοι, οὐχὶ Θεὸς ἦν ὁ ἐντειλόμενος διὰ Μωσέως, μήτε εἰκόνα, μήτε ὁμοίωμα, μήτε τῶν ἐν οὐρανῷ ἄνω, μήτε τῶν ἐπὶ γῆς ὅλως ποιῆσαι, κ. τ. λ.

^e Tertull. contr. Hermogen. c. i. Pingit illicite, nubit assidue : legem Dei in libidinem defendit, in artem contemnit: bis falsarius, et cauterio et stilo. (p. 233.)

^f De Idololatr. c. v. Hujusmodi artifices numquam in domum Dei admitti oportet, si quis eam disciplinam norit.

^g Ibid. c. vi. p. 88. C. Quomodo renuntiavimus diabolo et angelis ejus, si eos facimus? Quod repudium diximus iis, non dico cum quibus, sed de quibus vivimus? Quam discordiam suscepimus in eos, quibus exhibitionis nostræ gratia obligati sumus? Potes lingua negasse, quod manu confiteris? Verbo destruere, quod facto struis? Unum Deum prædicare, qui tantos efficis? Verum Deum prædicare, qui falsos facis? 'Facio, (ait quidam) sed non colo:' quasi ob aliquam causam colere non audeat, nisi ob quam et facere non debet; scilicet ob Dei offensam utrobique. Immo tu colis, qui facis ut coli possint. Colis autem non spiritum vilissimi nidoris alicujus, sed tuo proprio: nec anima pecudis impensa, sed anima tua. Illis ingenium tuum immolas, illis sudorem tuum libas, illis prudentiam accendis. Plus es illis quam sacerdos, quum per te habeant sacerdotem. Diligentia tua nomen [numen] illorum est. Negas te quod facis colere? Sed illi non negant, quibus hanc saginatiorem, et auratiorem, et majorem hostiam cædis, salutem tuam.

God, and make so many? Preach the true God, and make false ones? 'But (say you) I only make them, I do not worship them.' As if the same reason which forbids you to worship them, did not also forbid you to make them. Yea, you worship them in doing that which causes them to be worshipped. And you worship them not with the spirit of any vile 'nidor,' or smell of a sacrifice, but with your own spirit: not with the life of a sheep bestowed on them, but with your own soul. To them you sacrifice your own ingenuity, to them you offer your labour, to them you burn your prudence and understanding. You are more than a priest to them, since by your means it is that they have a priest. Your diligence is their deity. Do you then deny that you worship that, to which you give its very being and existence? But they themselves do not deny it, to whom you offer a fatter, and more costly, and greater sacrifice, even your own salvation." Thus far Tertullian, who, notwithstanding, seems to complain, that there was a great remissness in the exercise of discipline upon such offenders. For he immediately adds, "One might declaim all the day long with a zeal of faith upon this point, and bewail such Christians^h as come straight from their idols into the Church, from the shop of the adversary into the house of God, and there lift up to God the Father, those very hands which are the mothers or makers of idols; adoring God in the Church with those hands, which without doors are themselves adored in the idols which they have made against God; and taking the body of the Lord into those hands, wherewith they have prepared and given bodies to the devils. Nor is this all. It were but a small thing to defile that body which they receive from the hands of others, but those very hands deliver it to others, which have first

^h Tertull. de Idololatr. c. vii. p. 88. D. Tota die ad hanc partem zelus fidei perorabit, ingemens Christianum ab idolis in ecclesiam venire; [de adversarii officina in domum Dei:] attollere ad Deum Patrem manus matres idolorum: his manibus adorare, quæ foris adversus Deum adorantur: eas manus admovere corpori Domini, quæ dæmonibus corpora conferunt. Nec hoc sufficit. Parum sit, si ab aliis manibus accipiant quod contaminant, sed etiam ipsi tradunt aliis quod contaminaverunt. Adleguntur in ordinem ecclesiasticum artifices idolorum. Proh scelus! Semel Judæi Christo manus intulerunt; isti quotidie corpus ejus lacessunt. O manus præcidendæ! (Paris, 1688.)

defiled it. For the makers of idols are sometimes chosen into the holy orders of the Church. O monstrous wickedness ! The Jews once laid hands upon Christ, but these every day treat his body despitefully. O hands that ought to be cut off !” If Tertullian here does not make too severe an invective, and calumniate the Church, it must be owned there was some neglect in the exercise of discipline, to suffer such offenders not only to communicate, but take orders in the Church, who by the rules of discipline ought not to communicate in the Christian body in any quality whatsoever.

SECT. XII.—*The Idolatry of building or adorning Heathen Altars and Temples.*

Tertullian, in the same book, brings the charge of idolatry against all other artificers, who contributed toward the worship of idols, either by erecting of altars, or building of temples, or making of shrines, or beautifying and adorning the idols, or any thing belonging to them. For it was the same thingⁱ whether a man made an idol, or only adorned it. He that built a temple, or erected an altar, to an idol, or overlaid it with gold, did rather more toward its worship, than he that made it : for the one only gave it an effigies, the other gave it authority ; procuring veneration to be paid to it as a god. Upon this score, all who thus contributed toward the worship of idols, though they did not actually sacrifice to them, were ranked in the same class with idolaters, and accordingly subjected to the censures of the Church. Which appears from that famous remonstrance, which St. Ambrose made to the Emperor^k Valentinian, when he was solicited, by Symmachus the heathen, to restore the altar of Victory in the Capitol. He told him plainly, “That if he did this, no bishop would

ⁱ Tertull. de Idololatr. c. viii. p. 89. A. Nec enim differt, an exstruas vel exornes : si templum, si aram, si sediculum ejus instruxeris ; si bracteam expresseris, aut insignia, aut etiam domum fabricaveris. Major est ejusmodi opera, quæ non effigiem confert, sed auctoritatem.

^k Ambros. Epist. xxx. ad Valentin. jun. (Epist. x. tom. v. p. 195. k. edit. Paris. 1642.) Licebit tibi ad ecclesiam convenire, sed illic non invenies sacerdotem, aut invenies resistentem. Quid respondebis sacerdoti dicenti tibi, Munera tua non querit ecclesia, quia templa gentilium muneribus ornasti ? Ara Christi dona tua respuit, quoniam aram simulacris fecisti.

receive him to communion, but every one courageously repel him, and be ready to give him a good reason for their opposition: they will tell you (says he), that the Church desires not your gifts, because you have adorned the temples of the heathen with your gifts: the altar of Christ refuses your oblations, because you have erected an altar to the idol-gods." The case of Marcus Arethusius is famous in story, who chose rather to suffer death under Julian, than rebuild a temple, which he had demolished by law in the time of Constantius, as is related at large by Gregory Nazianzen¹ and Sozomen. And Theodoret highly commends Abdas^m a Persian bishop, for that having demolished a pyraeum (a temple where the Persians worshipped fire as a god), though he did this without any legal authority, yet he rather chose to suffer death than rebuild it; because it was the same thing to build a temple to the idol, as to worship it. And St. Chrysostomⁿ

¹ Naz. Orat. i. in Julian. (Colon. 1690, vol. i. p. 90. A.) "Εως μὲν γὰρ βαρυνάτην ποιησάμενοι τοῦ ναοῦ τὴν ἀποτίμησιν, τὸ πᾶν ᾗθουν χρυσίον, ἢ αὐτόν γε ἀναδείμασθαι τὸν νεῶν ἐκέλευον, κ. τ. λ.—Sozom. lib. v. c. x. (Vales. p. 495.) Προθυμότερον ἢ κατὰ πειθῶ, Κωνσταντίου βασιλεύσαντος, τοὺς Ἑλληνιστάς εἰς Χριστιανισμὸν ἐπανῆγε, καὶ τὸν παρ' αὐτοῖς σεμνότατον καὶ πολυτελέστατον ναὸν καθεῖλεν· ἐπεὶ δὲ μετέπεσεν εἰς Ἰουλιανὸν ἡ ἀρχή, κεκινημένον ἐπ' αὐτὸν τὸν δῆμον ὄρων, ἅμα δὲ καὶ κατὰ πρόσταγμα βασιλέως καταδικασθεῖς, ἢ τὴν ἀποτίμησιν τοῦ ναοῦ ἐκτίσαι, ἢ τοῦτον ἀνοικοδομησάι· λογισάμενος ὡς ἀδύνατον ἐκάτερον, Χριστιανῶ δὲ ἄλλως ἀθέμιτον τὸ δεύτερον, μήτι γὰρ δὴ ἱερεῖ, ἔφυγε τὰ πρῶτα· μαθὼν δὲ δι' αὐτὸν κινδυνεύειν πολλοὺς, ἐλευσμάτων τὲ καὶ δικαστηρίων καὶ τῶν ἐν τούτοις πειρᾶσθαι δεινῶν, ἐπανῆλθεν ἀπὸ τῆς φυγῆς, καὶ ἠθέλοντός ὅ, τι βούλονται αὐτὸν δρᾶν τῷ πλήθει προσήγαγεν. Vide etiam Theodoret. lib. iii. c. vii.

^m Theodoret. lib. v. c. xxxix. (Vales. 1695, p. 245.) "Αβδας τις ἐπίσκοπος ἦν, πολλοῖς κοσμούμενος εἶδεσιν ἀρετῆς· οὗτος οὐκ εἰς δέον τῷ ζήλῳ χρησάμενος πυρεῖον κατέλυσε· πυρεῖα δὲ καλοῦσιν ἐκείνοι τοῦ πυρὸς τοὺς νεῶς· Ζεὶν γὰρ τὸ πῦρ ὑπεκλήφασιν· τοῦτο μαθὼν παρὰ τῶν μάγων ὁ βασιλεὺς, μετεστείλατο τὸν Ἀβδαν· καὶ πρῶτον μὲν ἠπίως τὸ πρᾶξθην ῥητάσαστο, καὶ τὸ πυρεῖον οἰκοδομησάι προσέταξεν· ἐκείνου δὲ ἀντιλέγοντος, καὶ τοῦτο δρᾶσαι ἠκιστα φάσκοντος, πάσας καταλύσειν τὰς ἐκκλησίας ἠπειλήσε· καὶ μέντοι καὶ τέλος ἐπέθηκεν οἷς ἠπειλήσε· πρότερον γὰρ τὸν Ζεῖον ἄνδρα ἐκείνου ἀναιρεθῆναι κελεύσας, καταλυθῆναι τὰς ἐκκλησίας προσέταξεν· ἐγὼ δὲ τὴν μὲν τοῦ πυρεῖου κατάλυσιν οὐκ εἰς καιρὸν γεγενῆσθαι φημί . . . τὸ δὲ τὸν καταλυθῆναι μὴ ἀνοικοδομησάι νεῶν, ἀλλὰ τὴν σφαγὴν ἐλίσθαι μᾶλλον ἢ τοῦτο δρᾶσαι, κομιδῇ θαυμάζω, καὶ στεφάνων τιμῶμαι· ἴσον γὰρ μοι δοκεῖ τοῦ προσκυνῆσαι τὸ πῦρ, τὸ τέμενος δέμασθαι.

ⁿ Chrysost. Homil. xl. in Juventin. et Maxim. tom. i. p. 548. (p. 484, edit. Francof. 1698.) Εἴ τις ἦν ἐν τοῖς ἐμπροσθεν χρόνοις, ἡνίκα βασιλεῖς ἦσαν εὐσε-

says, it was a very common thing, in the time of Julian, to call upon all those who had been concerned in demolishing temples in the preceding reigns of Constantine and Constantius, and prosecute them to death, because they refused to rebuild them.

SECT. XIII.—*Of Merchants selling Frankincense to the Idol-Temples, and the Buyers and Sellers of the public Victims.*

Among other promoters and encouragers of idolatry, they reckoned all merchants selling frankincense to the idol-temples, and all who made a trade of buying and selling the public victims. Tertullian styles all these ‘*Procuratores Idololatriæ*,’ purveyors for idolatry. And he expressly says of those who bought and sold the public victims,^o that no Church would receive them to baptism, without obliging them to renounce that unlawful profession; nor suffer them to continue in her communion, if they were already of the number of the faithful. And hence he argues more strongly against the ‘*Turarii*,’ as he terms those who made a livelihood of selling frankincense to the temples, which he reckons the worse of the two. “With what face can the Christian seller of frankincense,^p if he chance to go through a temple, spit at the smoking altars, and show his detestation of those idols, for which he himself has been the purveyor? With what heart or courage can he pretend to exorcise those devils to whom he has been a foster-father, and made his house a shop to furnish materials for their service?” Hence, upon the whole matter, he concludes, “that no art, profession, business, or trade could be wholly free from the imputation of idolatry, which was instrumental and subservient either in making of idols, or furnishing out what was necessary to the support of their worship and service.”

βείς, ἡ βωμοὺς καταλύσας, ἡ ναοὺς κατασκάψας, ἡ ἀναθήματα λαβὼν, ἡ ἄλλ’
ὁτιοῦν τοιούτων ἐργασάμενος, εἰς δικαστήριον εἵλκετο καὶ ἐσφάζετο.

^o Tertull. de Idolis, c. xi. p. 92. Si publicarum victimarum redemptor ad fidem accedat, permittes ei in eo negotio permanere? Aut si jam fidelis agere susceperit, retinendum in ecclesia putabis? Non opinor.

^p Tertull. ibid. p. 92. A. Quo ore Christianus turarius, si per templa transibit, fumantes aras despuet, et exsufflabit, quibus ipse prospexit? Qua constantia exorcizabit alumnos suos, quibus domum suam cellarium præstat? . . Nulla ars, nulla professio, nulla negotiatio, quæ quid aut instruendis aut formandis idolis administrat, carere poterit titulo idololatriæ: nisi si aliud omnino interpretemur idololatriam, quam famulatum idolorum colendorum.

SECT. XIV.—*Of eating things offered to Idols. How and when it stood chargeable with Idolatry.*

The case of eating things offered to idols is resolved by the Apostle. It was never lawful to do it in an idol-temple, because that was to partake of the sacrifice as a sacrifice, and to communicate with devils; which was a hardening of the Gentiles, and a scandal to the Church of God. The Nicolaitans are condemned for this in scripture, and the practice of the Basilidians and Valentinians¹ by writers of the following ages. The acts of Lucian the martyr² tell us, “he chose rather to die with hunger, than to eat things offered to idols, when his persecutors would allow him no other sustenance in prison.” And Baronius gives another such instance³ in the people of Constantinople, who when Julian had ordered all the meat in the shambles to be polluted with idolatrous lustrations, they freely abstained from it, and used boiled corn instead of bread, so defeating the tyrant’s malicious intention. Not that it had been any idolatry to have eat such meats in such a case: for the Apostle allows it, where it may be done without either communicating with the idols, or giving scandal to the weak: “Whatsoever is sold in the shambles, eat, asking no question for conscience sake.” And upon this warrant of the Apostle,

¹ Agrippa Castor. ap. Euseb. lib. iv. c. vii. ὡν εἰς ἡμᾶς κατῆλθεν ἐν τοῖς τότε γνωριμωτάτου συγγραφῆς Ἀγρίππα Καστορος ἱκανώτατος κατὰ Βασιλείδου ἔλεγχος, τὴν δεινότητα τῆς τάνδρὸς ἀποκαλύπτων γοητείας . . διδάσκειν τε, ἀδιαφορεῖν εἰδωλοθύτων ἀπογενομένων, καὶ ἐξομνυμένους ἀπαραφύλακτως τὴν πίστιν κατὰ τοὺς τῶν διωγμῶν καιρούς.—Iren. lib. i. c. i. § xii. εἰδωλόθυστα ἀδιαφόρως ἐσθίουσι, μηδὲ μολύνεσθαι ὑπ’ αὐτῶν ἡγοούμενοι.

² Ap. Baron. an. cccxi. n. vi. (tom. iii. p. 56, edit. Antverp. 1623.) Eum etiam arecebant ab omni cibo, nisi vellet vesci iis, quæ ab ipsis sacrificabantur: ea enim affatim porrigebant. Ille autem maluisset subire mortes vel innumerabiles, et lubentius manens jejunos, paulatim a fame esset consumptus, quam vel illorum solum passus esset conspectum.

³ Baron. an. cccxii. num. xliii. p. 25. Cuncta cibaria, quæ venum publice in foris exponi solerent, sacrificiis diis immolatis infecit ac polluit, ut sic illi omnes cibis cogerentur vesci immolatitiis, nisi fame confici penitus vellent. Cum oraculo Theodori martyris, quonam modo consulendum esset fidelibus fame periclitantibus, fuit divinitus demonstratum, nempe ut tunc, loco panis, cocto omnes frumento uterentur in cibum.

Theodoret^t justifies the people of Antioch in another such case. For Julian made use of the same devilish stratagem to ensnare them, polluting all the fountains of Antioch and Daphne, and all the meat in the shambles with his idolatrous rites, and all the bread and fruits of the earth and herbs, that the Christians might have nothing to eat, but what was offered in sacrifice to idols. Which is also noted by Chrysostom^u and others, who speak of the diabolical wiles of Julian. But, in this case, the Christians made no scruple of eating anything, notwithstanding the policy of their adversary, as knowing that good creatures of God could not be defiled by any such wicked contrivances, so long as they did not consent to them, or communicate in them: "for the earth is the Lord's and the fulness thereof;" and what was sanctified to them by the word of God and prayer, could not be unsanctified or polluted by any profane abuses.

SECT. XV.—*Whether a Christian out of Curiosity might be present at an Idol-sacrifice, not joining in the service.*

But where there was any real communication with idolatry, or any just ground for a suspicion of it, it was at no hand allowable to give the least countenance to it, or any umbrage to surmise an approbation of it. For this reason the Council of Eliberis forbids any Christian to go to the Capitol,* or idol-temple, so much as only out of curiosity to see the sacrifice offered, under the penalty of ten years' penance imposed upon

^t Theodoret. lib. iii. c. xv. Πρῶτον μὴν τὰς ἐν τῷ ἄστει καὶ τὰς ἐν Δάφνῃ πηγὰς ταῖς μυσαραῖς θυσίαις ἐμόλυνεν, ἵν' ἕκαστος ἀπολαύων τοῦ νόματος μεταλαγχάνῃ τοῦ μύσου· ἔπειτα δὲ καὶ τὰ κατὰ τὴν ἀγορὰν προκείμενα τοῦ μισματος ἐνεπιμίπλα· περιεβράινοντο γὰρ καὶ ἄρτοι, καὶ κρέα, καὶ ὀπῶραι, καὶ λάχανα, καὶ ὅσα ἄλλα ἐδώδιμα· ταῦτα ὁρῶντες, οἱ τῆς τοῦ σεσωκότος προσηγορίας τετυχηκότες, ἔστενον μὲν καὶ ὠλοφύροντο βδελυγτόμενοι τὰ γινόμενα· μετελάμβανον δὲ ὅμως, ἀπαστολικῶς πειθόμενοι νόμῳ· πῶν γάρ, φησι, τὸ ἐν μακέλλῃ πωλούμενον ἐσθίετε, μὴδὲν ἀνακρίνοντας διὰ τὴν συνείδησιν. (Vales. p. 137. C.)

^u Chrysostom. Hom. iv. de laudibus Pauli, tom. v. p. 593. (p. 529, edit. Francof.) Πάλλιν αἱ πηγαὶ αἱ παρ' ἡμῖν, αἱ νικῶσαι τῷ ρεύματι τοὺς ποταμοὺς, ἀθρόον ἐφυγον καὶ ἀπεπήδησαν, μὴδέποτε τοῦτο παθεῖν προτέρων, ἀλλ' ὅτε θυσίαις καὶ σπονδαῖς τὸ χωρίον ἐμόλυνεν ὁ βασιλεὺς.

* Concil. Iliberrit. c. lix. Prohibendum, ne quis Christianus, ut gentilis, ad idolum Capitolii causa sacrificandi adscendat et videat: quod si fecerit, pari crimine teneatur. Si fuerit fidelis, post decem annos, acta poenitentia, recipiatur.

them. Alaspiny^γ rightly observes, That though there be a little obscurity in the original wording of the canon, yet it must needs intend to prohibit the going to see the sacrifice: for otherwise, if they went to sacrifice, not only a ten years' penance, but a penance for their whole lives was imposed upon them by the two first canons of this Council. So that the plain sense of the canon must be, that if, as an heathen went to sacrifice, so a Christian went only to see the sacrifice, he should be held guilty of the same crime, and do ten years' penance for it. Yet this was to be understood, if he had no other call but curiosity to carry him thither: for if by any necessary office or duty of his station he went thither, this was no crime: as if he was of the prince's guard, and only went to attend his sovereign, he was guiltless, because he went not to see the sacrifice, but to do his duty. Thus Theodoret^z says, "Valentinian when he was a tribune and captain of the guard to Julian, attended his master to the temple of Fortune: but when the door-keepers, according to custom, sprinkled their lustral or holy-water upon those that went in, and a drop of it fell upon his coat, he gave the man a blow upon the face, telling

^γ Alaspin. in loc. Arbitror ita legendum esse *causa sacrificii*; subintellige 'videndi': nam si animo sacrificandi interfuissem, atrociori supplicio adficerentur, neque in morte iis ad communionem adspirare liceret. *Quod si fecerit*] Si ad Capitolium adscenderit ut sacrificio interesset, neque tamen illud adspicere, aut intueri ei licuerit, pari poena supplicioque multetur, atque illud si oculis usurpasset, quum ejus voluntas fuerit, ut videret: neque vero sensus sententiaque ita perspicua manifesta que, si de iis sermonem fieri dicamus, qui sacrificandi causa eo pergerent, qui tamen non sacrificarent, quique tantum id a se visum esse et spectatum lætarentur, quia nec in morte communione erant donandi, qui sacrificaverant, ut ex primo canone constat. (Labb. i. 1003.)

^z Theodoret. lib. iii. c. xvi. (Vales. p. 138. D.) Οὐαλεντινιανὸς ἐκείνος, ὁ μικρὸν ὕστερον βασιλεύσας, χιλίαρχος δὲ ἦν τηνικαῦτα τῶν περὶ τὰ βασίλεια τεταγμένων λογοφώρων ἡγούμενος, ὃν εἶχεν ὑπὲρ τῆς εὐσεβείας οὐκ ἀπέκρυψε ζῆλον· ὁ μὴν γὰρ ἐμβρόντητος ἐκείνος εἰς τὸ τῆς τύχης τέμενος εἰσῆμι χορεύων· ἐκατέρωθεν τῶν θυρῶν εἰστήκεισαν νηκόροι περιβραντηρίους τοὺς εἰσιόντας προκαθαίροντες, ὡς ἐνόμιζον. Ἐπειδὴ δὲ τοῦ βασιλέως ἡγούμενος τῇ χλανίδι ῥανίδα πελάσασαν εἶδεν Οὐαλεντινιανὸς, ὁ βασιλείας ἐκατέρας τούτου χάριν τετυχηκώς, πύξ ἔπαισε τὸν νεώκτορον, μεμολύνθαι φήσας, οὐ κεκαθάρθαι. Θεασάμενος δὲ τὸ γεγονός ὁ ἐξάγιστος, εἰς φρούριον αὐτὸν παρὰ τὴν ἔρημον κείμενον ἐξέπεμψεν, αὐτόθι διάγειν προστεταχώς· ἀλλ' ἐκείνος μὴν ἐνιαυτοῦ καὶ μηνῶν διεληλυθότων ὀλίγων, μισθὸν τῆς ὁμολογίας τὴν βασιλείαν ἰδέετο. Vid. Sozom. lib. vi. c. vi. qui eadem narrat.

him, he did not think himself purified but profaned." And by this act, says Theodoret, he merited two kingdoms, both an earthly and an heavenly. For Julian immediately "banished him for the fact, and confined him to a castle in the desert: but before a year and a few months were past, this noble confessor was rewarded with the imperial crown and the dignity of the Roman empire." By this it appears, they put a great difference between going to a temple out of mere impertinency and curiosity to see the idolatrous rites and sacrifices, and going thither only upon the necessary obligations of their duty and function. And Tertullian, who is as severe as any in this matter, owns the reasonableness of this distinction. "It were to be wished, (says he,) that we could live^a without seeing those things which we cannot lawfully practise: but because idolatry has so filled the world with evils, a man may be present in some cases, where duty binds him to the man, and not to the idol. If I am called to a priesthood or to a sacrifice, I will not go: for that is the proper office or service of the idol: neither will I contribute by my counsel, or my expense, or my labour to any such thing. If when I am called to a sacrifice, I go and assist, I am partaker of the idolatry: but if any other cause joins me to the sacrificer, I am only a spectator of the sacrifice." He applies this particularly to slaves waiting on their heathen masters, and children or clients on their patrons or parents, and officers on governors and judges. "If we are careful to observe this rule, neither by word nor deed to give any assistance to the idolatrous service, we may attend on magistrates and powers, after the example of the patriarchs

^a Tertull. de Idololatr. cap. xvi. xvii. p. 95. D. Utinam nec videre possemus, quæ facere nobis nefas est. Sed quoniam ita Malus circumdedit sæculum idololatria, licebit adesse in quibusdam, quæ nos homini, non idolo, officiosos habent. Plane ad sacerdotium et sacrificium vocatus non ibo, proprium enim idoli officium est; sed neque consilio, neque sumtu, aliave opera in ejusmodi fungar. Si propter sacrificium vocatus adstam, ero particeps idololatriæ: si me alia causa conjungit sacrificanti, ero tantum spectator sacrificii. Ceterum quid facient servi vel liberti fideles? item officiales sacrificantibus dominis, vel patronis, vel præsidibus suis adhaerentes? Sed si merum quis sacrificanti tradiderit, immo si verbo quoque aliquo sacrificio necessario adjuverit, minister habebitur idololatriæ. Hujus regulæ memores etiam magistratibus et potestatibus officium possumus reddere secundum patriarchas et ceteros majores, qui regibus idololatriis usque ad finem idololatriæ apparuerunt.

and others of our ancestors, who waited on idolatrous kings, 'usque ad finem idololatriæ,' as far as the confines of idolatry would permit them." He gives the same resolution in some other private and common cases, as a Christian's being obliged to attend the solemnity of giving a youth the 'toga virilis,' the habit of a man, the solemnity of espousals, or nuptials, or the manumission of a slave,^b or giving him a new name. For all these things were innocent in themselves. And though idolatrous rites were usually mixed with them, yet a man might be present without communicating in those rites, distinguishing the causes which required his attendance. They were pure and clean in their own nature: for neither does the habit of a man, nor the ring of espousals, nor the joining of man and woman in marriage, descend originally from any honour of an idol: for all these things are allowed by God; and though sacrifices were used in the ceremony, yet a man whose office and business was not in the sacrifice, but required upon some other account, might lawfully attend them without defilement. This was the resolution of all such cases, where some obligation of office or duty required a man's presence at some idolatrous service; not as contributing any ways his assistance in it, or communicating either directly or indirectly in the service; but only performing what properly belonged to him by virtue of his lawful employment; and being ready, like Valentinian, to show his aversion to all superstitious and idolatrous rites, when any more peculiar occasion required it. The being present barely to perform some other duty, was not interpreted in this case any communicating with idolatry; because the very tenour of his obligation and duty sufficiently demonstrated it to be otherwise.

^b Tertull. *ibid.* c. xvi. Circa officia privatarum et communium solemnitatum, ut togæ puræ, ut sponsalium, ut nuptialium, ut nominalium, nullum putem periculum observari de statu idololatriæ, quæ intervenit: causæ enim sunt considerandæ, quibus præstatur officium. Eas mundas esse opinor per semetipsas; quia neque vestitus virilis, neque annulus, aut conjunctio maritalis, de alicujus idoli honore descendit. (Paris, 1664, p. 95. C.)

SECT. XVI.—*Whether he might eat his own Meat in an Idol-temple.*

But where a man had no such necessary call or obligation to perform any duty that required his presence in a temple, then to be present at an idolatrous service, or do any thing that might look with a suspicious aspect towards it, was a sufficient reason to bring him under ecclesiastical censure. Thus no one could pretend any just reason to carry his own meat and eat it in an idol-temple, but this must needs imply some disposition towards idolatry. And therefore, the Council of Ancyra^c made a decree, that such as feasted with the heathen upon any idol-festival in any place set apart for that service, though they carried their own meat and eat it there, should do two years' penance for it. The canon does not expressly call the place an idol-temple, but (τόπον ἀφωρισμένον,) a place set apart for the service; which whether we take it for a temple, or any other place of feasting, is all one, since it was a place appropriated to the worship of the idol on a festival peculiarly dedicated to the honour of some heathen god.

SECT. XVII.—*Or feast with the Heathen on their Idol-festivals.*

And this sort of feasting with the heathens on their proper festivals, whether in a temple or out of a temple, was precisely forbidden under the notion of 'communicating with them in their impiety:' which are the express words of the Council of Laodicea, prohibiting this practice of keeping such festivals with the Gentiles.^d Among the Apostolical canons^e there is also one, that forbids Christians to carry oil to any heathen temple, or Jewish synagogue, or to set up lights on their festivals, under the penalty of excommunication: which shows, that

^c Concil. Ancyran. c. vii. Περὶ τῶν συνεστιαθέντων ἐν ἑορτῇ ἰθνικῇ ἐν τόπῳ ἀφωρισμένῳ τοῖς ἰθνικοῖς, ἴδια βρώματα ἐπικομισαμένων καὶ φαγόντων· ἔδοξε διετίαν ὑποπεσόντας δεχθῆναι. (Labb. i. 1459.)

^d Concil. Laodiceen. c. xxxix. "Ὅτι οὐ δεῖ τοῖς ἔθνεσι συνεορτάζειν, καὶ κοινωνεῖν τῇ ἀθεότητι αὐτῶν. (Labb. i. 1504.)

^e Can. Apost. lxxi. (al. lxx.) Εἰ τις Χριστιανὸς ἔλαιον ἀπενέγκῃ εἰς ἱερὰ ἰθνῶν, ἢ εἰς συναγωγὴν Ἰουδαίων ἐν ταῖς ἑορταῖς αὐτῶν, ἢ λήχνους ἄπει, ἀφοριζέσθω.

Christians were sometimes inclined to concur with the heathens in this practice.

And this seems to be the most rational sense that can be given of those two canons of the Council of Eliberis, which so much trouble interpreters; the one of which forbids the lighting^f wax-candles by day in the cemeteries or burying-places of the martyrs, for fear of disquieting the spirits of the Saints, under the penalty of excommunication: and the other^g prohibits the setting up of lamps in public, under the same penalty of being cast out of the communion of the Church. Albaspinus thinks these orders were made upon a mistaken notion, that the souls of the martyrs were still waiting under the altars; which, he says, was the opinion of Cyprian^h and

^f Conc. Illiberit. c. xxxiv. Cereos per diem placuit in cœmeterio non incendi: inquietandi enim sanctorum spiritus non sunt. Qui hæc non observaverint, arceantur ab ecclesiæ communione. (Labb. i. 974.)

^g Conc. Illiberit. c. xxxvii. Prohibendum etiam, ne lucernas publice accendant. Si facere contra interdictum voluerint, abstineant a communione.

^h Albaspin. ad can. xxxiv. (ap. Labb. tom. i. p. 998.) Ego facile adducor, ut credam concilii illius patres opinionem mentemque Tertulliani, Cypriani, et eorum, qui ea ætate florerent, sequutos, qui animas martyrum sub altaribus hæ-re et habitare, ibique, dum eorum mortem Deus ulcisceretur, expectare senserunt: atque adeo verba illa, cap. vi. Apocal., ad verbum, tueri ac recipere, divum Cyprianum de Lapsis, 'sub ara Dei animæ occisorum martyrum clamant magna voce, dicentes, Quo usque Domine, sanctus et verus, non judicas et vindicas sanguinem nostrum de iis qui in terris inhabitant? et requiescere et patientiam adhuc tenere jubentur: et quemquam posse aliquis existimat remittendis passim donandisque peccatis bonum fieri contra judicem velle, aut priusquam vindicetur ipse, alios posse defendere.' Quibus credere videtur martyrum animas sub aris quiescere. Idem, de Bono Patientiæ, 'Unde etiam clamantes martyres, et ad vindictam suam dolore erumpente properantes, expectare adhuc jubentur, et temporibus consummandis implendisque martyribus præbere patientiam. Et quum aperuisset, inquit, quintum sigillum, vidi sub ara Dei animas occisorum propter verbum Dei et martyrium suum, et clamaverunt voce magna, dicentes.' Idem, ad Quirinum, lib. iii. 'Et quum aperuisset quintum signum, vidi sub ara Dei animas occisorum propter verbum Dei et martyrium suum.'—Tertull. de Resurr. Carnis, cap. xxv. 'Etiam in Apocalypsi Joannis ordo temporum sternitur, quem martyrum quoque animæ sub altari, ultionem et judicium flagitantes, sustinere didicerunt; ut prius et orbis de pateris angelorum plagas suas ebibat, et prostituta illa civitas a decem regibus dignos exitus referat, et bestia Antichristus cum suo pseudopropheta certamen ecclesiæ Dei inferat, atque ita diabolo in abyssum interim relegato, primæ resurrectionis prærogativa de solis ordinetur: dehinc et igne dato, universalis resurrectionis censura de libris judicetur.' Idem de Anima, cap. viii. 'Sol enim corpus, siquidem ignis: sed quod aquila confiteatur, neget noctua, non tamen præjudicans aquilæ:

Tertullian. But it is more probable, that the council forbade these rites upon another ground, because they were superstitious and idolatrous rites used by the heathen in their solemnities, as is expressly said by Tertullian¹ and many others collected by Baronius². And this seems to be the true reason why the council forbade them, that Christians might not symbolize with the heathens in such superstitious practices. But to proceed, the heathen festivals are known in the civil law under the general name of *Vota*, and *Votorum Celebritas*, solemn days of prayer and worship of their gods. And as Gothofred³ has accurately distinguished them, they comprised, 1. all their *Ludi*, or days of public shows, which were in honour of their gods. Among which the *Maiuma* is very famous, there being a title in the Theodosian code^m concerning the permission and regulation of it under the Christian emperors, till at last it was finally put down by Arcadius. 2. Their other days of public feasting. 3. The kalends of January, or beginning of the new year. Against the superstitious observation of which there are frequent invectives in the writings of the ancients, particularly in St. Ambrose,ⁿ Asterius Amasenus,^o and Prudentius.^p 4thly, The third of January, which was a noted

tantumdem et animæ corpus invisibile carni si forte, spiritui vero visibile; sic Joannes, in spiritu Dei factus, animas martyrum conspicit.—Idem, *adversus Gnosticos*, cap. xi. ‘Sed et interim sub altari martyrum animæ placidum quiescunt, et fiducia ultionis candidum claritatis usurpant, donec et alii consortium illarum gloriæ impleant,’ &c.

¹ Tertull. *Apol. c. xxxv.* Grande videlicet officium, focos et toros in publicum educere, vicatim epulari, &c.—Cap. xlvi. Quis philosophum sacrificare, aut dejerare, aut lucernas meridie vanas prostituere compellit? Vide de *Idololatr. c. xv.*

² Baron. *an. lviii. n. lxxii. lxxiii.*

³ Gothofred. in *Codic. Theodos. lib. xvi. tit. x. de paganis, leg. viii. p. 269.*

^m Cod. Theodos. de *Maiuma*, lib. xv. tit. vi.

ⁿ Ambros. *Serm. xvii.* (*Serm. xi. tom. v. Opp. p. 15. l. edit. Paris. 1642.*) Janus homo fuit unius conditor civitatis, quæ Janiculum nuncupatur; in cujus honorem a gentibus kalendæ sunt Januariæ nuncupatæ: unde qui kalendas Januarias colit, peccat, quoniam homini mortuo defert divinitatis obsequium.

^o Aster. *Hom. iv. de festo kalendarum.* (*In Biblioth. Patr. Max. tom. v. p. 816—818, edit. Lugdun. 1677.*)

^p Prudent. *contr. Symmach. lib. i. v. 237-240.*

. . . . Jano etiam celebri de mense litatur
Auspiciis epulisque sacris, quas inveterato,
Heu miseri, sub honore agitant, et gaudia ducunt
Festa kalendarum.

festival or day of heathen devotion for the emperor's safety. Among these may be also reckoned their *Brumalia*, forbidden by the Council of Trullo :^a and the *Neomenia*, or new-moons, against which St. Chrysostom has a whole discourse, to dissuade Christians from the observation of them : where he particularly inveighs^r against the impious superstition that was still reigning in men's hearts as the relics of paganism. For they were superstitiously addicted to observation of times, and made divination and conjectures upon them ; as if they spent the new-moon of such a month in mirth and pleasure, the whole year following would be prosperous and lucky to them. So both men and women gave themselves to intemperance and excess on these days, out of this diabolical persuasion, as he justly terms it, that the good or bad fortune of the rest of the year depended upon such an ominous beginning of it. Which was the Devil's invention to ruin the practice of all virtue. He observes farther, that^s they were used, in the celebration of these times, to set up lamps in the market-place, and crown their doors with garlands ; which he condemns together with their superstition and intemperance, as a mixture of diabolical pomp and childish folly. By which we see how prone men were to follow the heathen in such practices, even when they were delivered both from their ignorance and compulsion : and much more, may we suppose, were they under a temptation to comply with them in the observation of their festivals, whilst they were under the terror of their laws and violent persecutions. Nay, even in St. Austin's time, the heathen were so insolent in Africk, as to compel the Chris-

^a Concil. Trullan. c. lxii. see p. 39. (c.)—Can. lxn. Τὰς ἐν ταῖς νεομηνίαις ὑπὸ τινων πρὸ τῶν οἰκίων ἐργαστηρίων καὶ οἰκῶν ἀναπτομένηας πυρκαϊὰς, ὧς καὶ ὑπεράλλεσθαι τινες κατὰ τι ἔθος ἀρχαίων ἐπιχειροῦσιν, ἀπὸ τοῦ παρόντος καταργηθῆναι προστάσσομεν. (Labb. vi. 1172.)

^r Chrysost. Homil. xxiii. in eos qui novilunia observant, tom. i. p. 297. A. (p. 264, edit. Francof.) Παρατηροῦσιν ἡμέρας . . καὶ οἰωνίζονται, καὶ νομίζουσιν, εἰ τὴν νομηνίαν τοῦ μηνὸς τούτου μεθ' ἡδονῆς καὶ εὐφροσύνης ἐπιτελέσασιν, εἰ τὸν ἅπαντα τοιοῦτον ἔξιν ἐνιαυτόν . . γυναικες καὶ ἄνδρες ψάλας καὶ ποτήρια πληρώσαντες μετὰ πολλῆς τῆς ἀσωτίας τὸν ἄκρατον πίνουσι.

^s Chrysost. Homil. xxiii. in eos qui novilunia observant, tom. i. p. 300. A. (p. 265, ed. Frf.) Αὐχονὺς ἀπτεν ἐπὶ τῆς ἀγορᾶς, καὶ στεφάνωματα πλέκιν, παιδικῆς ἀνοίας ἔστιν.

tians to observe their festivals; of which the African fathers, in the fifth Council of Carthage,^t were forced to complain to the Emperor Honorius, and petition him by his authority to redress the grievance: they represent to him, how the pagans in many places, not only kept their superstitious feasts themselves, but forced the Christians to join with them; so that it looked like a secret persecution under Christian emperors: wherefore they desired him to make a law to prohibit them both in city and country, and restrain them by some suitable penalty inflicted on them. Which at first Honorius refused to grant, but afterward he complied with their request upon more mature deliberation. The law is still extant in the Theodosian Code,^u forbidding all holding of feasts or other solemnities in temples in honour of the gods; and enjoining all bishops and judges of the provinces to take care of the execution of it. Yet this did not so root out the superstition, but that many heathens still continued in it; and some looser Christians were ready enough either to join with the heathen in their practices, or at least to imitate the luxury and vanity of them under the notion of Christian observations. St. Austin makes a bitter complaint in one of his epistles,^x of the

^t Concil. Carthag. V. can. v. (Not.—Apud Labbeum hæc loco citato non leguntur. Grischov.)—Vide Cod. Afric. can. lx. *Κάκεινο ἐτι μὴν δεῖ αἰτῆσαι παρὰ τῶν Χριστιανῶν βασιλέων, ἐπειδὴ παρὰ τὰ θεῖα παραγγέλματα ἐν πολλοῖς τόποις συμπόσια οὕτως ἐπιτελοῦνται, ἐκ τῆς ἰθυικῆς πλάνης προσενεχθέντα, ὥς καὶ Χριστιανοὺς τοῖς Ἑλλήσι λάθρα προσυνάγεισθαι ἐν τῇ τούτων τελετῇ· ἵνα κελεύσῃσι τὰ τοιαῦτα κωλυθῆναι καὶ ἐκ τῶν πόλεων καὶ ἐκ τῶν κτήσεων.* (Labbe. vol. ii. 1086.)

^u Cod. Theod. lib. xvi. tit. x. de paganis, leg. xix. Non liceat omnino in honorem sacrilegi ritus funestioribus locis exercere convivia, vel quidquam solemnitatis agitare. Episcopis quoque locorum, hæc ipsa prohibendi ecclesiasticæ manus tribuimus facultatem; judices autem xx. librarum auri poena constringimus, et pari forma officia eorum, si hæc eorum fuerint dissimulatione neglecta. (Lugdun. 1665. vol. vi. p. 288.)

^x Aug. Epist. ccii. ad Nectarium. (vol. ii. p. 171. B. C.) Contra recentissimas leges, kalendis Junii festo paganorum sacrilega solemnitas agitata est, nemine prohibente, tam insolenti ausu, quod nec Juliani temporibus factum est, petulantissima turba saltantium in eodem prorsus vico ante fores transiret ecclesiæ. Quam rem illicitissimam atque indignissimam clericis prohibere tentantibus, ecclesia lapidata est. Deinde post dies ferme octo, quum leges notissimas episcopus ordini replicasset, et dum ea quæ jussa sunt, velut implere disponunt, iterum ecclesia lapidata est. Postridie nostris ad imponendum perditis

insolence of the heathen immediately after the publishing of this law; how upon one of their festivals on the kalends of June, they came dancing in a petulant manner before the doors of the Church: which when the clergy endeavoured to prohibit, they stoned the Church; and when the bishop complained to the judges, they stoned it again, and a third time, setting fire to the houses belonging to the Church, and killing some of the clergy, and causing others to fly for their lives. An insolent and daring attempt, not to be paralleled by any thing, he says, that was done in the time of Julian! And what was worse than all, no one of the magistrates or chief men of the place either offered to quell the riot, or give any assistance to the sufferers, except a stranger of some authority, who delivered many of the servants of God out of their hands, whilst the rest only looked on the abuse with pleasure, and some of them were strongly suspected as working underhand to excite this tumult and set the heathen upon them, being grieved at this new law which laid a restraint upon these festivals, in which they were wont to take so much pleasure.—Which shows how deeply the love of these heathen festivals was rooted in the hearts of many carnal and libertine Christians. In another epistle he makes as sad a complaint to Aurelius bishop of Carthage^y of the intemperance and de-

metum, quod videbatur apud Acta dicere volentibus publica jura negata sunt. Eodemque ipso die, ut vel divinitus terrerentur, grando lapidationibus reddita est; qua transacta continuo tertiam lapidationem, et postremo ignes ecclesiasticis tectis atque hominibus intulerunt; unum servorum Dei, qui oberrans occurrere potuit, occiderunt, ceteris partim ubi potuerant latitantibus, partim qua potuerant fugientibus, quum interea contrusus atque coarctatus quodam loco se occultaret episcopus, ubi se ad mortem quærentium voces audiebat sibi in-crepantium, quod, eo non invento, gratis tantum perpetrassent scelus. Gesta sunt hæc ab hora ferme decima usque ad noctis partem non minimam. Nemo compescere, nemo subvenire tentavit illorum, quorum esse gravis posset auctoritas, præter unum peregrinum, per quem et plurimi servi Dei de manibus interficere conantium liberati sunt, et multa extorta prædantibus; per quem clarum factum est, quam facile illa vel omnino non fierent, vel cepta desisterent, si cives maximeque primates ea fieri perficique vetuissent.

^y Aug. Epist. lxiv. ad Aurelium. (vol. ii. p. 21. C.) Comessationes et ebrietates ita concessæ et licitæ putantur, ut in honorem etiam beatissimorum Martyrum, non solum per dies solemnes, (quod ipsum quis non lugendum videat, qui hæc non carnis oculis inspicit?) sed etiam quotidie celebrentur. . . P. 22. Istæ in cœmeteriis ebrietates et luxuriosa convivia, non solum hæ-

bauchery which many such Christians were wont to commit upon the festivals of their own martyrs, and other anniversary commemorations of their deceased friends; which was only acting all the impurity of the heathen festivals under the name of Christian. He prays him therefore to take some method to drive away such profane and sacrilegious impurities from the house of God.* But he thinks this could not be done by any rough methods, or in any imperious way, but by instruction rather than commanding; and by admonition rather than threatening: for that was the only way^a to deal with a multitude: the severity of discipline was only to be exercised upon sinners when their numbers were small.—This is a grievous complaint indeed, and he often repeats it in other places:^b which shows how close the superstition and pleasure of the heathen festivals stuck to the hearts of many ignorant and carnal men, even after they became Christian: and their multitudes in Africk were so great, that though their crimes deserved the severity of excommunication, yet St. Austin, in such circumstances, could not think that the proper remedy to cure the distemper. St. Ambrose and other Italian bishops, he says, did happily root out this evil custom, and that was some ground to hope it might be effected in

c nores Martyrum a carnali et imperita plebe credi solent, sed etiam solatia mortuorum.

* Aug. Epist. lxi. ad Aurelium. (p. 21. D.) Saltem de sanctorum corporum sepulchris, saltem de locis sacramentorum, de domibus orationum tantum dedecus arceatur.

^a Ibid. Non aspere, quantum existimo, non duriter, non modo imperioso ista tolluntur: magis docendo quam jubendo, magis monendo quam minando. Sic enim agendum est cum multitudine [peccantium]: severitas autem exercenda est in peccata paucorum. (p. 21. F 6.)

^b Augustin. contr. Faustum, lib. xx. c. xxi. Qui se in memoriis martyrum inebriant, quomodo a nobis approbari possunt, quum eos, etiam si in domibus suis id faciant, sana doctrina condemnet? sed aliud est quod docemus, aliud quod sustinemus: aliud quod præcipere jubemur, aliud quod emendare præcipimur, et donec emendemus, tolerare compellimur. Alia est disciplina Christianorum, alia luxuria vinolentorum, vel error infirmorum. (Vol. viii. p. 247. C 6.)—Aug. de Civitate Dei, lib. viii. c. xxvii. (vol. vii. p. 166. D 7.) Quicumque epulas suas eo (ad martyrum loca) deferunt, quod quidem a Christianis melioribus non fit, et in plerisque terrarum nulla talis est consuetudo; tamen quicumque id faciunt, quas cum apposuerint, orant, et auferunt, ut vescantur, vel ex eis etiam indigentibus largiantur, sanctificari sibi eas volunt per merita Martyrum in nomine Domini Martyrum.

Africk : but yet long after this we find the complaint renewed against Christians retaining the relics of heathen superstition, in this matter of observing festivals. For the Council of Trullo has a canon^c that forbids the observation of the Kalends, and the Bota, and Brumalia, and the solemnity of the first of March, or May (as different copies read it), and the public dancings, and other ceremonies used by men and women, as handed down by ancient custom under the names of the heathen false gods : prohibiting likewise the interchanging of habits in men and women, and wearing of comical and tragical masks, and satirical dresses, and calling upon the name of Bacchus in treading the wine-press, with some other such ridiculous vanities, proceeding from the imposture of the Devil. The kalends here signify the first of January. The Bota is explained by Balsamon, and others who follow him, the feast of the god Pan, because βοτὰ signifies sheep ; but Gothofred^d and Suicerus^e more judiciously render it ‘Vota,’

^c Concil. Trullan. c. lxii. Τὰς οὕτω λεγομένας καλάνδας, καὶ τὰ λεγόμενα βοτὰ, καὶ τὰ καλούμενα βρουμάλια, καὶ τὴν ἐν τῇ πρώτῃ τοῦ Μαρτίου μηνὸς ἡμέρᾳ τελουμένην πανήγυριν, καθάπαξ ἐκ τῆς τῶν πιστῶν πολιτείας περιαιρεθῆναι βουλόμεθα· ἀλλὰ μὴν καὶ τὰς τῶν γυναικῶν δημοσίας ὀρχήσεις, πολλὰν λύμην καὶ βλάβην ἐμποιοῦν δυναμένας· ἔτι μὴν καὶ τὰς ὀνόματι τῶν παρ’ Ἑλλήσι ψευδῶς ὀνομασθέντων θεῶν, ἡ ἐξ ἀνδρῶν ἢ γυναικῶν γενομένας ὀρχήσεις καὶ τελετὰς κατὰ τι ἔθος παλαιὸν καὶ ἀλλότριον τοῦ τῶν Χριστιανῶν βίου ἀποπεμπόμεθα, ὀρίζοντες μηδένα ἄνδρα γυναικεῖαν στολὴν ἐνδιδύσκεσθαι, ἢ γυναῖκα τοῖς ἀνδράσιν ἁρμόδιον· ἀλλὰ μήτε προσωπεῖα κωμικά, ἢ σατυρικά, ἢ τραγικά ὑποδύεσθαι· μήτε τὸ τοῦ βδελυκτοῦ Διονύσου ὄνομα τὴν σταφυλὴν ἀποθλίβοντας ἐν τοῖς ληνοῖς ἐπιβοᾶν· μηδὲ τὸν οἶνον ἐν τοῖς πίθους ἐπιχέοντας ἀγνοίας τρόπῳ ἢ ματαιότητι, τὰ τῆς μανιώδους πλάνης ἐνεργοῦντας. (Labb. vol. vi. p. 1170.)

^d Gothofred. in Codic. Theodos. lib. xvi. tit. x. de paganis, leg. viii. p. 270. Balsamo joculariter lapsus est, qui τὰ βοτὰ ἀπὸ τῶν βοτῶν, id est, ἀπὸ τῶν προβάτων, deduxit, et festum id in Panis honorem agitari solitum prodidit.

^e Suicer. Thesaur. Eccles. tom. i. p. 706. Βοτὰ apud recentiores Græcos, ‘vota’ et ‘votorum dies’ Latinis appellantur, qui annum inchoant, ob solemnem pro salute principis votorum nuncupationem. Et quidem κυρίως tertius post kalendas Januarii dies appellatione ‘votorum’ intelligitur, ut est in lege cccxxiii. de verborum significatione, et apud Dionem, lib. lviii. licet ipsis etiam kalendis suscepta pro principe vota, ut illo ipso loco scripsit Dio. Retinuere Christiani Principes ‘votorum’ et morem et appellationem, ut apparet ex titulo codicis de oblatione votorum : et ex canone lxii. concilii in Trullo : Τὰς οὕτω κ. τ. λ. (vid. sub anteced. litt. [c]). Balsamon ad hunc canonem, p. 436. de vocis βοτὰ origine suaviter philosophatur, dum illud Græcis suis vindicat, vultque esse illud nomen ei festo inditum ἀπὸ τῶν βοτῶν, ἡγουν προβάτων,

it being only the Latin name *Vota* turned into Greek, and denoting the heathen festival on the third of January for the safety of the emperor. The *Brumalia* is by Balsamon understood of the feast of Bacchus: but it may be better explained from Tertullian, who among many other heathen festivals, which some Christians were very much inclined to observe, reckons the *Brumæ*, or *Brumalia*; and objects it^f by way of reproach to such Christians, that they were not so true to their religion as the heathens were to theirs: for the heathens would never observe any Christian solemnity, either the Lord's day, or Pentecost, or any other. "They will not communicate with us in these things, for they are afraid of being thought Christians. But we are not afraid of being thought heathens, whilst we celebrate their *Saturnalia*, and *Januariæ*, and *Brumæ*, and *Matronales*, and mutually send presents and new year's gifts, and observe their sports and feasts." Where by the *Brumæ*, learned men^g understand, not the feasts of Bacchus, but the festivals of the winter solstice, properly called *Bruma*; from which they made a conjecture, whether the remainder of winter would prove fortunate to them or not. This superstition, being a relic of old paganism, continued in

quod in honorem Panis, pastorum Dei, sit institutum. A Balsamone etiam seductus Cl. Meursius in glossario suo scribit, *βῶρα* esse 'festum quoddam in honorem Panis' institutum. At *βῶρα* sunt heic 'vota,' ut recte interpres vertit, et Casaubonus in *Spartianum* docet. Vide Reinesii *Var. Lect. lib. ii. c. iv.* (Amstel. 1728.)

^f Tertull. de *Idololatr.* c. xiv. (Paris. 1664. p. 94.) *Saturnalia*, *Januariæ*, et *Brumæ*, et *Matronales* frequentantur? munera commeant? strenæ consonant? lusus, convivia constrepunt? O melior fides nationum in suam sectam; quæ nullam solemnitatem Christianorum sibi vindicat! Non Dominicum diem, non Pentecosten, etiamsi noscent, nobis communicassent; timerent enim, ne Christiani viderentur. Nos ne ethnici pronuntiemur, non veremur. Item c. x. Etiam strenæ captandæ, et *Septimontium*, et *Brumæ*, &c. (p. 91.)

^g Vide Jun. in loc.—Hospinian. de *Festis Ethnicorum*, c. xxviii. p. 127. (p. 224, b. edit. Genev.) *Brumalia*: '*Bruma*' a brevitate dierum dicta, Pompeio auctore, quasi *βραχυμέρον*, tempus illud est, quum breviores sunt dies. Et ut ex Florentino Principe Paulus Marsus in commentariis ad lib. i. Ovidii *Fastorum*, et Merula in comment. in *Elegiam* xii. lib. iii. Tristium ejusdem, indicat, ab octavo kalendarum Decembrium usque ad nonum kalendarum Jan. celebrabantur festa *Brumalia*. De hoc festo Coelius, lib. xv. cap. xxiv. ex Græcorum collectaneis rei rusticæ hæc adnotat: '*Democritus et Apuleius talem expectari hiemem aiunt oportere, cujusmodi fuerit dies festus, quem Brumam vocant Romani: est autem quarta et vicesima Dii mensis, qui est November.*' (Tigur. 1611. p. 142.)

the minds of many Christians to the time of the Council of Trullo, an. 692. Which was the reason why this council forbade it, with many other observations of the like nature, under the penalty of excommunication; which, as we have seen, was always the punishment of such crimes, except when the multitude of offenders (as St. Austin says) made it impossible to exercise the severity of ecclesiastical discipline upon them.

SECT. XVIII.—*Of the Idolatry of worshipping Angels, Saints, Martyrs, Images, &c.*

I take no notice here of the idolatry that might be committed in the worship of angels, or saints and martyrs, or the Virgin Mary, or images, or the Eucharist, because I have had occasion before to speak more at large of these in several parts¹ of this work. And it will be sufficient here only to observe in general, that none but professed heretics were ever accused of this sort of idolatry in the primitive ages, such as the Angelici for worshipping angels, and the Simonians and Carpocratians for worshipping images, and the Collyridians for worshipping the Virgin Mary: and these being heretics by profession, there is no question but that the censures of the Church were inflicted on them, and all such as adhered to or went over to them; which is sufficient to remark here for explaining and confirming the exercise of discipline in the Church.

SECT. XIX.—*Of Encouragers of Idolatry and Connivers at it.*

There is but one thing more to be noted concerning the practice of idolatry, which is, that all favourers and encouragers of idolatry were equally reputed guilty of the crime with idolaters themselves, as partaking in their sin. If a master sent his servant to sacrifice for him, the act was the servant's, but the guilt rebounded on the master's head, as the principal author of it; as we have seen before in the case of the Libellatici, who employed their servants to sacrifice

¹ Vide lib. viii. c. viii. vol. ii. p. 501, &c. Lib. xiii. c. iii. vol. iv. p. 144. seq.

for them. If a judge who was obliged by his office to extirpate idolatry, when the laws gave him authority and power to do it, did either publicly neglect his duty, or secretly connive at the practice of idolaters, he was reputed guilty of the crime by participation. Thus St. Austin charges the magistrates of a certain city as criminals in this respect,^h that when the laws had empowered them to root out all the remainders of idolatry, they were negligent and remiss in putting them in execution; though the laws themselves, to whichⁱ he refers, had laid a penalty of twenty pounds in gold upon any judge, or officer belonging to him, if by any dissimulation of theirs the force of the law, prohibiting heathen festivals, was fraudulently evaded.—So before idolatry was forbidden by the imperial laws, whilst under the countenance of heathen emperors it rode triumphant, Christians were obliged not only to abstain from sacrificing themselves, but to lend no helping hand by their authority to the sacrifices; not to make a trade of selling victims; not to be a guardian or curator of any temple, or collector of their revenues; not to exhibit the public games and shows, either at his own expense, or the expense of the public, or so much as preside in them when they were acted; not to use any of their solemn words or forms peculiar to idolatrous worship, nor to swear by the names of their gods: all which Tertullian remarks and puts together in one^k place; giving this as a reason why a Christian under an heathen government could not safely take upon him the office of a judge; because that post would oblige him to countenance idolatry either by his authority, or some other of those ways, which he could not do without injuring his conscience and doing violence to the laws of his own religion, which do not allow a man to help forward the practice of

^h August. Epist. ccii. ad Nectarium. See note (x) p. 36.

ⁱ Cod. Theod. lib. xvi. tit. x. de paganis, leg. xix. *Judices autem viginti librum auri poena constringimus, et pari forma officia eorum, si hæc eorum fuerint dissimulatione neglecta.* (Lugdun. 1665. vol. vi. p. 288.)

^k Tertull. de Idololatr. c. xvii. (Paris. 1664, p. 96. B.) *Neque sacrificet, neque sacrificiis auctoritatem suam accomodet, non hostias locet, non curas templorum deleget, non vectigalia eorum procuret, non spectacula edat de suo aut de publico, aut edendis præsit: nihil solemne pronuntiet vel edicat, ne juret quidem.*

idolatry in others.—And for this reason the council of Eliberis¹ made an order, that no possessors or landlords should allow of any thing that was brought in their accounts by their managers or tenants, as given to an idol, under the penalty of five years' suspension from the communion. And in another canon^m they order all masters to prohibit their servants from retaining any idols in their houses, as far as lay in their power; or if they could not do this in times of persecution for fear their servants should use some violence toward them, that is, inform against them or betray them, they should at least keep themselves pure, or otherwise be cast out of the Church. In times of peace, they were to carry their power a little further: for by a rule of the second Council of Arles,ⁿ after laws were made by the state to prohibit and root out idolatry, every Presbyter within his own territory or district was to prosecute all infidels that still continued to light torches to idols, or worship trees, or fountains, or stones, under the penalty of being himself reputed guilty of sacrilege, if he neglected so to do. And every lord or governor of the place, who upon admonition should refuse to correct such errors in those under his command, was to be deprived of the communion. By another canon of the Council of Eliberis,^o all persons, both men and women, are prohibited to lend any heathen their clothes and apparel to set off the secular pomp, under the penalty of three years' suspensions from the communion. Where by 'the secular pomp' it is most reasonable to understand the idolatrous ceremonies of the heathen on their

¹ Concil. Illiberit. c. xl. (Lab. vol. i. p. 975.) Prohiberi placuit, ut, quum rationes suas accipiunt possessores, quidquid ad idolum datum fuerit, acceptum non referant; si post interdictum fecerint, per quinquennii spatia temporum a communione esse arcendos.

^m Ibid. c. xli. Admoneri placuit fideles, ut in quantum possint, prohibeant ne idola in domibus suis habeant: si vero vim metuunt servorum, vel se ipsos puros conservent; si non fecerint, alieni ab ecclesia habeantur.

ⁿ Concil. Arelat. II. c. xxiii. (Lab. vol. iv. p. 1013.) Si in aliqujus presbyteri territorio infideles aut faculas accendunt, aut arbores, fontes vel saxa venerentur: si hoc eruere neglexerit, sacrilegii se esse reum cognoscat. Dominus autem vel ordinator reus ipsius, si admonitu emendare noluerit, communione privetur.

^o Concil. Illiberit. c. lvii. Matronæ, vel earum mariti, ut vestimenta sua ad ornandam sæculariter pompam non dent: et si fecerint, triennio abstineantur. (Lab. vol. i. p. 976.)

public festivals. But there is one case peculiarly guarded against in that council, because many well-meaning Christians, in a mistaken zeal against idolatry, were apt to run into a contrary extreme, and think themselves obliged to break and deface idols wherever they found them: to correct which error the council ^p was forced to make another decree to forbid this unwarrantable practice, and to order that if any one was slain in such a fact, he should not be enrolled in the catalogue of martyrs; because the Gospel gives no such command, neither do we find it ever practised by the Apostles. This observation of the council concerning the practice of the Apostles seems to be very just. For whatever zeal they had against idolatry, we never read that they went in a tumultuous way into the heathen temples to demolish their idols; but rather the contrary character is given them by the testimony of the very heathen. Of which we have an illustrious instance in the apology which the town-clerk of Ephesus made for Paul and his companions, when they were accused by Demetrius, and the craftsmen who made silver shrines for Diana, as if they had done violence to her temple, and to the image which fell down from Jupiter: "Ye have brought hither these men," says he, "which are neither robbers of churches, nor yet blasphemers of your goddess." Acts xix. 37.

It is true, indeed, Eulalia the martyr had done some such thing not long before in Spain: but the council would not have her action, which might be done by a peculiar impulse of the spirit, drawn into example; because it was an unnecessary provocation of the heathen, and prejudicial to the church, without any warrant from scripture; which bids men confess Christ when they are called to do it, but not to provoke the enemy by an imprudent zeal, when there is no just reason for it. And this is what Cyprian before them had always taught his people both by his preaching and his writing, that they ^q should raise no tumults, nor offer themselves of their own

^p Concil. Illiberit. c. lx. Si quis idola fregerit, et ibidem fuerit occisus; quatenus in evangelio non est scriptum, neque invenitur ~~al~~ apostolis umquam factum; placuit in numero eum non recipi martyrum. (Labb. i. p. 977.)

^q Cyp. Epist. lxxxi. al. lxxxiii. Oxon. 1682. p. 239. (p. 334, edit. Fell. Amstelod.) Vos, fratres carissimi, pro disciplina, quam de mandatis Dominicis a

accord to the Gentiles ; but when they were apprehended and delivered up to the magistrate, then to speak what the Lord put into their hearts in that hour, who would have us to confess him when called to do it, but not rashly put ourselves upon it. Thus the ancients in this matter of idolatry, the great crime of that age, steered their discipline with an even course, keeping a just medium between two extremes ; neither allowing any sinful compliance or communication with it, nor encouraging any indiscreet and over-zealous opposition to it. And if Tertullian in the former case has stretched the matter a little too far ; as when he determines it to be a species, and smatch of idolatry for a schoolmaster to teach the names of the heathen gods to his scholars, or for a Christian to bear arms, or fly in time of persecution ; it is easy to account for these singularities, knowing out of what school they came, and that they were not the dictates of the spirit of Christ, but the spirit of Montanus : and it is a sufficient answer to any such pretences, that we meet with no such dogmatical assertions in purer writers, nor any such rules in ecclesiastical discipline, nor any such overbearing custom in the Church of God. I have been the more curious in stating the sense of the ancients upon these several questions, both because they are useful to explain the discipline of the Church, and also because they may have their use when applied to other cases : and it is not very common to find the subject of idolatry treated of in this way by modern authors.

me semper accepistis, et secundum quod me tractante sæpissime didicistis, quietem et tranquillitatem tenete : ne quisquam vestrum aliquem tumultum de fratribus moveat, aut ultro se gentilibus offerat : apprehensus enim et traditus loqui debet ; siquidem in nobis Dominus positus in illa hora loquatur : qui nos confiteri magis voluit, quam [temere] profiteri.

CHAPTER V.

OF THE PRACTICE OF CURIOUS AND FORBIDDEN ARTS, DIVINATION, MAGIC, AND ENCHANTMENT: AND OF THE LAWS OF THE CHURCH MADE FOR THE PUNISHMENT OF THEM.

SECT. I.—*Of the several Sorts of Divination. Particularly of Astrology.*

ANOTHER great crime against religion was the practice of curious and forbidden arts, which are almost innumerable, from the great and various inclination of men to superstition. I shall sum them up under three general names, divination, magic, and enchantment. Divination comprehends all the arts and ways of discovering secrets, or foretelling future events, not knowable by any rules of nature: magic, all the arts of mischievous operations by secret and unknown means, which is commonly called sorcery, and by the Latins *Veneficium* and *Maleficium*, from poisoning and doing mischief: enchantment chiefly relates to a pretended skill and power of doing good, as of curing diseases by certain charms, and words, and signs, and amulets, which has made it the more agreeable to weak and superstitious persons, because it has a pretence and show of being useful and beneficial to mankind. Among the several species of divination one of the most noted and infamous was that of astrology, or the pretence of discovering secrets by the position and motion of the stars. Men who professed this art, are commonly called *Mathematici*, drawers of schemes and calculations; under which name they are condemned in both the codes.^a And they were infamous not only under the Christian administration, but also under the old Romans.

^a Cod. Theod. lib. ix. tit. xvi. tot. de maleficiis et mathematicis, p. 113—136.

For there is a law of Diocletian^b in the Justinian code, which allows the art of geometry as an useful science, but forbids the *ars mathematica*, the astrologer's art, as a damnable practice. And Tacitus^c says, there were decrees of the senate made in the reign of Tiberius, for expelling all the astrologers and magicians out of Italy: but he likewise observes,^d that they were a sort of men, which were always forbidden, and yet always retained. For though they were deceitful and fallacious to great men, yet they still had an inclination now and then upon occasion to consult them. Their expulsion out of Italy is also noted by Suetonius, as done twice^e in the reigns of Tiberius and Vitellius. Upon which Tertullian^f in a smart and elegant way tells some Christians, who pleaded for a toleration of themselves in the profession of this wicked art, "that astrologers were expelled out of Italy and Rome, as their angels were out of heaven: the same penalty of banishment was inflicted on the scholars, as had been on their masters before them." Now then the laws of the state, both heathen and Christian, being thus severe against them, it was but reasonable that the censures of the Church should be as sharp upon them, because they were a species of idolaters, and owed the original of their art to the invention of wicked angels. For this reason the Constitutions^g put astrologers into the

^b Cod. Justin. lib. ix. tit. xxxviii. de maleficis et mathematicis, leg. ii. *Artem geometriæ discere atque exercere publice interest. Ars autem mathematica damnable est atque interdicta omnino.*

^c Tacit. *Annal.* lib. ii. c. xxxii. *Facta et de mathematicis magisque Italia pellendis senatus consulta; quorum e numero Pituanus saxo dejectus est.*

^d Id. in *Hist.* lib. i. c. xxii. *Mathematici, genus hominum, potentibus infidum, sperantibus fallax, quod in civitate nostra et vetabitur semper, et retinebitur.*

^e Sueton. *vit. Tiber.* c. xxxvi. *Expulit et mathematicos: sed deprecantibus, ac se artem desituros promittentibus, veniam dedit.—Id. Vit. Vitell.* c. xiv. *Nullis infensor quam vernaculis et mathematicis, ut quisque deferretur, inauditum capite puniebat: exacerbatus, quod post edictum suum, quo jubebat, intra kalend. Octobris urbe Italiaque mathematici excederent, statim libellus est propositus, et Chaldaeos edicere, &c.*

^f Tertull. de *Idol.* c. ix. p. 89. D. *Urbs et Italia interdicatur mathematicis, sicut cælum angelis eorum: eadem poena est exsilii discipulis et magistris.*

^g *Constitut.* lib. viii. c. xxxii. *μάγος, ἑκαυδός, ἀστρολόγος, μάντις, θηριεφδός . . . πανσῳμένοι προσδεχίσθωσαν, μὴ πειθόμενοι δὲ ἀποβαλλίσθωσαν.*

black list of such as were to be rejected from baptism, unless they would promise to renounce their profession. The first Council of Toledo^h condemns the Priscillianists with anathema for the practice of it. For we must know, that the Priscillianists ascribed all to fate and the necessary influence of the stars, as St. Austin informs us : they asserted that men were bound to fatalⁱ stars, and that our bodies were compounded according to the order of the twelve signs of the zodiac, as they who are commonly called Mathematici, or astrologers maintain ; appointing Aries for the head, Taurus for the neck, Gemini for the shoulders, Cancer for the breast, and so running through the other signs, till they came to the feet, which they attributed to Pisces, which is the last sign in the astrologers' computation. Leo^k in one of his epistles gives the same account of them, that they maintained that the bodies and souls of men were bound to fatal stars ; by which folly, men were embarrassed in the errors of the pagans, and obliged to worship those stars that were favourable to them, and appease those that were against them : but they who followed such vanities, could have no place in the Catholic Church ; for he that gives himself to such persuasions, is wholly departed from the body of Christ. Sozomen^l says, Eusebius bishop of Emesa was accused of the practice of this art, and forced to fly from his bishopric upon it. He gives it indeed another name, calling it 'apotelesmatical astronomy : ' but that^m signifies the same thing : for there

^h Concil. Tolet. I. in regula fidei contra Priscillianistas. Si quis astrologiæ vel mathesi existimat esse credendum, anathema sit. (Labb. vol. ii. p. 1228.)

ⁱ Augustin. de Hæres. c. lxx. (vol. viii. p. 17. C 2.) Adstruunt fatalibus stellis homines colligatos, ipsumque corpus nostrum secundum duodecim signa cœli esse compositum, sicut hi qui mathematici vulgo appellantur, constituentes in capite Arietem, Taurum in cervice, Geminos in humeris, Cancrum in pectore, et cetera nominatim signa percurrentes, ad plantas usque perveniunt, quas Piscibus tribuunt, quod ultimum signum ab astrologis nuncupatur.

^k Leo, Epist. xci. al. xciii. ad Turibium, cap. xi. Fatalibus stellis et animas hominum et corpora opinantur obstringi : per quam amentiam necesse est, ut omnibus paganorum erroribus implicati, et faventia sibi, ut putant, sidera colere, et adversantia studeant mitigare. Verum ista sectantibus nullus in ecclesia catholica locus est : quoniam qui se talibus persuasionibus dedit, a Christi corpore totus abscessit. (Lugdun. 1700. vol. i. p. 229.)

^l Sozomen. lib. iii. c. vi. διαβάλλετο ἀσκεῖσθαι τῆς ἀστρονομίας, ὃ μέρος ἀποτελεσματικὸν καλοῦσι, φηγὰς ἦλθεν εἰς Λαοδικεῖαν.

^m Justin. Respons. ad Orthodox. xxiv. de τελέσμασι Apolloniū loquitur : Εἰ

were two parts of astronomy; the one teaching the nature and course of the stars; which was a lawful art: and the other, the secret effects and powers of them in their oppositions, conjunctions, &c. which effects were called their apotelesmata, and the art itself Apotelesmatica, and the practisers of it anciently Apotelesmatici, as afterwards Mathematici and Chaldæi. Some thinkⁿ also these apotelesmata were little figures and images of wax, made by magical art to receive the influence of the stars, and used as helps in divination: so that the apotelesmatical art was the same in all respects with judicial astrology. And therefore Eusebius Emissenus was condemned for the practice of it, as an unlawful art, utterly unbecoming the character of a Christian bishop. For by the account that has been given, it is plain, that all such kind of divination was looked upon as idolatry and paganism, as owing its original to wicked spirits, and as introducing an absolute fate and necessity upon human actions, and so taking away all freedom from human will, and making God the author of sin: which blasphemies are commonly charged upon this art by the ancients, St. Austin,^o Lactantius,^p Tertullian,^q

θεός ἐστιν δημιουργός καὶ δεσπότης τῆς κτίσεως, πῶς τὰ Ἀπολλωνίου τελέσματα ἐν τοῖς μέρεσι τῆς κτίσεως δύνανται;

ⁿ Vid. Selden. de Diis Syris, Syntagma i. c. ii. p. 116. (N.B. In edit. Lugdun. Batav. 1629. 8vo. integrum cap. ii. semel atque iterum perlegi, non inveni autem, imagines istas fuisse cereas. Grischov.) — Spencer. de Urin et Thummim, lib. iii. c. iii. sect. x. p. 369. (p. 1309, edit. Lips. 1705. 4to.) Minus itaque a vero distare credimus eorum sententiam, qui imagines hasce futurorum conscias ab antiquissimæ memoriæ populis, Chaldæis, Syris, Ægyptiis, inventas aut usitatas adserunt. Maimonides enim imagines istas oracula fundentes, apud nominis antiquissimi gentes, Zabios aut Chaldæos, fidem et pretium invenisse refert: ‘Erexerunt stellis imagines, soli quidem aureas, lunæ vero argenteas. . . . Deinde sacella ædificaverunt, imaginesque in illis collocarunt, arbitantes stellarum vires influere in illas imagines, easque intelligendi virtutem habere, hominibus prophetiæ donum largiri, ac denique, quæ ipsis utilia et salutaria sunt indicare.’ (Cantabr. 1727. p. 965.)

^o Augustin. de Civit. Dei, lib. v. c. i. (vol. vii. p. 89. E 3.) Illi qui positionem stellarum, quodammodo decernentium qualis quisque sit, et quid ei proveniat boni, quidve mali accadat, ex Dei voluntate suspendunt, si easdem stellas putant habere hanc potestatem traditam sibi a summa illius potestate, ut volentes ista decernant; magnam cœlo faciunt injuriam, in cujus velut clarissimo senatu ac splendidissima curia opinantur scelera facienda decerni; qualia si aliqua terrena civitas decrevisset, genere humano decernente fuerat evertenda. — Id. de Doctrin. Christian. lib. ii. c. xxi. (vol. iii. p. 24. G.) Neque illi ab hoc genere

Eusebius,^r Origen, and Bardesanes Syrus, who wrote particular dissertations against it, mentioned by Eusebius, who gives some extracts out of them. We may note farther out of St. Austin, that these astrologers had sometimes the name of Genethliaci^s from pretending to calculate men's nativities by erecting schemes and horoscopes, as they called them, to know what position the stars were in at their birth; and thence prognosticate their good or bad fortune, or any accidents of their life, by the conjunction of the stars they were born under. And because some of these pretended to determine positively of the lives and deaths of kings, which was reputed a very dangerous piece of treason; therefore the laws of the state were more severe against them even under the heathen emperors, as Gothofred shews^t out of the ancient lawyers, Ulpian and Paulus; and that was another reason, why the Church thought it proper to animadvert upon these with the utmost severity of ecclesiastical censures; as think-

perniciosa superstitionis segregandi sunt, qui genethliaci propter natalium dierum considerationes, nunc autem vulgo mathematici vocantur. Nam et ipsi quamvis veram stellarum positionem, quum quisque nascitur, consecretur, et aliquando etiam pervestigent; tamen quod inde conantur vel actiones nostras vel actionum eventa prædicere, nimis errant, et vendunt imperitis hominibus miserabilem servitutem.

P Lactant. lib. ii. c. xv. Eorum (dæmonum) inventa sunt astrologia, et aruspicina, et auguratio, et ipsa, quæ dicuntur, oracula, et necromantia, et ars magica, &c.

q Tertull. de Idololatr. (Paris. 1664. p. 89. C.) Animadvertimus inter artes, etiam professiones quasdam obnoxias idololatriæ. De astrologis ne loquendum quidem est. Sed quoniam quidam istis diebus provocavit, defendens sibi perseverantiam professionis istius, paucis utar. Non allego, quod idola honorat, quorum nomina cælo inscripsit, quibus omnem Dei potestatem addixit: quod propterea homines non putant Deum requirendum, præsumentes stellarum nos immutabili arbitrio agi. Unum propono, angelos esse illos desertores Dei, amatores feminarum, proditores etiam hujus curiositatis, propterea quoque damnatos a Deo, &c.

^r Euseb. de Præparat. Evang. lib. vi. c. x. et xi. tot.

^s Augustin. de Doctrin. Christian. lib. ii. c. xxi. cit. sub litt. antec. (o).

^t Gothofred. in Cod. Theodos. lib. ix. tit. xvi. de maleficis et mathematicis, leg. ii. p. 116. § Porro. Sane Ulpianus quoque apud auctorem collationis legum Mosaicarum, eos qui de Principis salute consulissent, capite punitos, vel quæ alia graviore pœna adfectos scribit. Sed et Paulus (5. sentent. tit. 21.) aruspices et ceteros, qui de salute Principis et summa reip. responderint, una cum eo qui consuluerit, capite puniri.

ing that what the heathen laws had punished as a capital crime, ought not to pass unregarded in the discipline of the Christian Church. It was this crime that expelled Aquila from the Church. For Epiphanius says ^u he was once a Christian; but being incorrigibly bent upon the practice of astrology, the Church cast him out; and then he became a Jew, and in revenge set upon a new translation of the Bible, to corrupt those texts which had any relation to the coming of Christ. St. Austin ^x gives a famous instance of an astrologer, who, being excommunicated for his crimes, afterwards became a penitent, and was reconciled to the Church by his ministerial absolution. The sum of his crimes was this: he taught the fatal influence of the stars; that it was Venus that made a man commit adultery, and not his own will; and that it was Mars, and not his own will, that made him commit murder; and that if any man was righteous, it was not from God, but from the influence of Jupiter, a star so called in the heavens. And by this art he had defrauded many people of their money; but at last he became a convert, and upon his confession and repentance, was received into the Church again, to lay-communion, but for ever denied all promotion among the clergy. By which one instance, we may judge of the greatness of the crime, and the proceedings of the Church against such offenders.

^u Epiphan. de Mensur. et Ponder. § xv. tot. tom. ii. p. 171. Vide inf. cap. vi. sub litt. (a) page 80.

^x Augustin. de mathematico, ad calcem tractatus in Psalm lxi. (tom. viii. Opp. p. 632, edit. Basil. 1569.) Iste ex Christiano et fidei pœnitens redit, et terribus potestate Domini, convertitur ad misericordiam Domini. Seductus enim ab inimico, quum esset fidelis, diu mathematicus fuit: seductus seducens, deceptus decipiens, illexit, fefellit, multa mendacia loquutus est contra Deum, qui dedit hominibus potestatem faciendi quod bonum est, et non faciendi quod malum est. Iste dicebat, quia adulterium non faciebat voluntas propria, sed Venus: et homicidium non faciebat voluntas propria, sed Mars: et justum non faciebat Deus, sed Jupiter: et alia multa sacrilega non parva. Quam multis eum putatis Christianis nummos abstulisse? . . . Modo, sicut de illo credendum est, horruit mendacium, et multorum hominum illectorem: se aliquando a diabolo sensit illectum, convertitur ad Deum pœnitens. Putamus, fratres, de magno timore cordis accidissee. Quid enim dicturi sumus? Namque si ex pagano converteretur mathematicus, magnum quidem esset gaudium: sed tamen posset videri, quia si conversus est, clericatum quæreretur in ecclesia? Pœnitens est, non quærit nisi solam misericordiam. (Benedict. vol. iv. p. 452. C. D.)

SECT. II.—Of *Augury and Soothsaying*.

Another sort of divination was, that which was called ‘augury and soothsaying:’ which was committed several ways. Sometimes by observing several signs and appearances in the entrails of the sacrifices, which was properly called ‘Aruspicina’ and ‘Haruspicium.’ Sometimes by observations made upon the motion, or flying, or singing of birds, which was called ‘augury,’ in the strictest sense. Sometimes by remarks made upon the voice of men, or their sneezing, which was called an ‘omen,’ and the thing reputed ominous. Sometimes by observing certain signs in the figure and lineaments of the body; as in the hands, which was called chiromancy; or in the face and forehead, which was called *μετωποσκοπία*, or physiognomy; or in the back, called *νωτομαντεία*, with many other observations of the like nature. The old Romans were much given to these superstitions: insomuch that they had their colleges of augurs, and would neither fight, nor make war or peace, or do any thing of moment without consulting them. The squeaking of a rat, was sometimes the occasion of dissolving a senate, or making a consul or a dictator^y lay down his office, as begun with an ill omen. Now though Christianity was a professed enemy to all such vanities; yet the remains of such superstition continued in the hearts of many after their conversion: so that the Church was forced to make severe laws to restrain them. The council of Eliberis^z makes the renunciation of this art a condition of baptism, if an augur had a mind to be baptized: and if afterward he returned to the practice of it, he was to be cast out of the Church. Which is also the rule in the Apostolical Constitutions,^a and the councils of Agde,^b Vannes,^c Orleance,^d and several others. The Constitutions

^y Valer. Maxim. lib. i. c. i. n. 5. Occentus soricis auditus, Fabio Maximo dictaturam, Caio Flaminio magisterium equitum deponendi causam præbuit.

^z Concil. Illiberit. can. lxii. (Labbé, vol. i. p. 977.) Si augur [auriga] et pantomimus credere voluerint, placuit, ut prius artibus (c) suis renuntient, et tunc demum suscipiantur, ita ut ulterius ad ea non revertantur. Qui si facere contra interdictum tentaverint, projiciantur ab ecclesia.

^a Constit. lib. viii. c. xxxii. ch. v. § i. sub litt. (g) p. 47.

^b Concil. Agathens. c. xlii. vide sub litt. seq. (g) p. 54.

^c Concil. Venetic. c. xvi. vide sub litt. seq. (h).

^d Concil. Aurel. I. c. xxx. vide sub litt. seq. (h).

not only censure astrologers, magicians, and enchanters, but also wandering fortune-tellers, augurs, and soothsayers, observers of signs and omens, interpreters of palpitations, observers of accidents in meeting others, and making divination upon them, as upon a blemish in the eye, or in the foot, observers of the motion of birds or weasels, observers of voices and symbolical sounds.

SECT. III.—*Of Divination by Lots.*

And it is observable, that in the French councils last mentioned, there is a peculiar sort of augury condemned under the name of ‘Sortes Sacræ,’ divination by holy lots: which was a piece of new superstition grafted upon an old stock, and introduced with a more specious show in the room of an heathen practice. For the heathens were used to divine by a sort of lots, which they called ‘Sortes Virgilianæ;’ which was done by a casual opening of the book of Virgil, and then the first verses that appeared, were taken and interpreted into an oracle. Thus Spartian says,^e Hadrian had the empire prognosticated to him by drawing his lots out of Virgil: for the first word that appeared, “Missus in imperium magnum,” portended that he should become the Roman Emperor. And so Lampridius,^f in the life of Alexander Severus, says, that

^e Spartian. Vit. Hadrian. p. 5. (p. 9. inter Historiæ Augustæ Scriptores edit. a Schrevelio, Lugd. Batav. 1661.) Quo quidem tempore quum sollicitus de imperatoris erga se judicio, Virgilianas sortes consularet,

Quis procul ille autem ramis insignis olivæ,
Sacræ ferens? nosco crines incanaque menta
Regis Romani; primus qui legibus urbem
Fundabit, Curibus parvis et paupere terra,
Missus in imperium magnum. Cui deinde subibit,

sors excidit, quam alii ex Sibyllinis versibus ei provenisse dixerunt.

^f Lamprid. Vit. Alex. p. 341. (cap. xiv. p. 521. cit. edit.) Ipse, quum parentis hortatu animum a philosophia et musica ad alias artes traduceret, Virgilii sortibus hujusmodi illustratus est:

Excudent alii spirantia mollius æra,
Credo equidem, vivos ducent de marmore vultus;
Orabunt causas melius, cœlique meatus
Describent radio, et surgentia sidera dicent:
Tu regere imperio populos, Romane, memento;
Hæ tibi erunt artes, pacisque imponere morem,
Parcere subjectis, et debellare superbos.

Incrant multa alia signa, quibus principem humani generis esse constaret.

emperor also understood by this sort of divining lots out of another verse of Virgil, that he should obtain the government of the Roman empire. Now many superstitious Christians were of opinion, that this sort of divination might be much better made by using the holy Scriptures after the same manner, and to the same purpose : and therefore as the heathen used Virgil, so they used the Bible, to learn their fortune by 'sacred lots,' as they called them, taking the first passage that presented itself, to make their divination and conjecture upon : and it appears that some of the inferior clergy, out of a base spirit, and love of filthy lucre, encouraged this practice, and made a trade of it in the French Church : whence the Gallican councils are very frequent in the condemnation of it. The Council of Agde^g takes notice, that some of the clergy and laity followed after soothsaying, to the great detriment of the catholic religion ; and under the name of feigned religion, professed the art of divination, by what they called 'the lots of the saints,' making use of a casual inspection of the Scriptures to divine futurities by. It is decreed therefore, "That whoever of the clergy or laity should be detected in the practice of this art, either as consulting or teaching it, should be cast out of the communion of the Church." This had been decreed about sixty years before in the Council of Vannes, an. 465, in the very same words. And the first Council of Orleans,^h about five years after the Council of Agde, repeats the decree with a very little variation. But the practice continued for all this : for Gregory of Toursⁱ says, Chramnus the son of

^g Concil. Agath. c. xlii. (Labbé, vol. iv. p. 1390.) Quod maxime fidem catholicæ religionis infestat, quod aliquanti clerici, sive laici, student auguriis, et sub nomine fictæ religionis, per eas quas sanctorum sortes vocant, divinationis scientiam profitentur, aut quarumcumque scripturarum inspectione futura promittunt; hoc quicumque clericus vel laicus detectus fuerit vel consulere vel docere, ab ecclesia habeatur extraneus.

^h Concil. Venetic. c. xvi. (Labbé, vol. iv. p. 1054.)—Concil. Aurel. I. c. xxx. (Labbé, vol. iv. p. 1409.) Si quis clericus, monachus, vel sæcularis, divinationem vel auguria crediderit observanda, vel sortes (quas mentiuntur esse sanctorum) quibuscumque putaverint intimandas, cum his qui eis crediderint, ab ecclesiæ communione pellantur.

ⁱ Gregor. Turon. Hist. lib. iv. c. xvi. Positis clerici tribus libris super altarium, id est prophetiæ, apostoli, atque evangeliorum, oraverunt ad Dominum, ut Chramno quid eveniret ostenderet : simulque unam habentes conniventiam,

King Clotaire consulted the clergy of Dijon upon some points, and they gave him an answer by this sort of divination. Some reckon St. Austin's conversion owing to such a sort of consultation; but the thought is a great mistake, and very injurious to him; for his conversion was owing to a providential call, like that of St. Paul, from heaven. He says,^k he heard a voice he knew not whence, saying, 'Tolle, lege; tolle, lege;' Take up the Bible and read; which he did, and the first words he chanced to cast his eye upon, were those of St. Paul, Rom. xiii. "Let us walk honestly as in the day; not in rioting and drunkenness, not in chambering and wantonness, not in strife and envying: but put ye on the Lord Jesus Christ, and make not provision for the flesh, to fulfil the lusts thereof." Which words being apposite to his case, he looked upon them as spoken directly to himself, and accordingly applied them to his own condition: and so by God's providence they became the means of fixing him in that piety, purity, and sobriety, for which he was afterwards so famous in the world. Here was nothing of divination in all this; but a seasonable application of a proper passage to himself, as he says St. Anthony had made of those words of our Saviour, "Go, sell all that thou hast, and give to the poor, and thou shalt have treasure in heaven, and come follow me:" which he took as an oracle spoken immediately to himself, and they were the occasion of his turning to the Lord. As to any other use of the Scripture for divination, St. Austin was an enemy to it, and expresses himself against it, reflecting on some who used it to that pur-

ut unusquisque in libro quod primum aperiebat, hoc ad missas etiam legeret. Aperto ergo primo omnium prophetarum libro, reperiunt, 'Auferam maceriem ejus,' &c. (Esai. v. 5. 4.) Reseratoque apostoli libro, inveniunt, 'Ipsi enim diligenter scitis, fratres, quia dies Domini sicut fur in nocte veniet,' &c. (1 Thess. v. 2, 3.) Dominus autem per evangelia ait, 'Qui non audit verba mea, adsimilabitur viro stulto,' &c. Matt. vii. 37.

^k Augustin. Confess. lib. viii. c. xii. (1700. vol. i. p. 114. A.) Ego sub quadam fici arbore stravi me, nescio quomodo, et dimisi habenas lacrimis, et proruperunt flumina oculorum meorum.... Et ecce audio vocem de vicina domo cum cantu dicentis et crebro repetentis, quasi pueri an puellæ, nescio: 'Tolle, lege; tolle, lege.' Statimque mutato vultu intentissimus cogitare coepi, utrumnam solerent pueri in aliquo genere ludendi cantitare tale aliquid; nec occurrebat omnino audivisse me uspiam. Repressoque impetu lacrimarum surrexi, nihil aliud interpretans nisi divinitus mihi juberi, ut aperirem codicem, et legerem quod pri-

pose : “ as for those,¹ (says he,) who divine by lots out of the Gospel, though it be more desirable they should do this, than run to ask counsel of devils ; yet I am displeased at this custom, which turns the divine oracles, which speak of things belonging to another life, to the business of this world, and the vanities of the present life.” By which it is plain, he looked upon this sort of divination as a great abuse of the Gospel, though not so bad as going directly to consult devils. As for those which are commonly called ‘divisory lots,’ there is no harm in them, when applied to things in our own power ; as to dividing of lands by lot, or determining in an army who shall first invade the enemy ; or in time of a plague or persecution, what ministers shall stay in a city to take care of the Church ; which is a case particularly mentioned by St. Austin,^m and allowed as lawful. So a prince may distribute his punishments by lot, when he is minded to spare some criminals, and punish others. And when there are two objects of charity in equal circumstances, and we cannot relieve both, St. Austinⁿ thinks there is no harm in casting lots to determine which of them shall have our charity. And there are many other indifferent cases of the like nature, in which lots may be used without any prejudice to religion. And therefore the Church

num caput invenissem . . . Itaque concitus redii ad eum locum, ubi sedebat Alypius : ibi enim posueram codicem apostoli, quum inde surrexeram. Arripui, aperui, et legi in silentio capitulum, quo primum conjecti sunt oculi mei : ‘ Non in comessionibus et ebrietatibus, non in cubilibus et impudiciis, non in contentione et æmulatione : sed induite Dominum Jesum Christum, et carnis providentiam ne feceritis in concupiscentiis.’ Nec ultra volui legere, nec opus erat. Statim quippe cum fine hujusce sententiæ, quasi luce securitatis infusa cordi meo, omnes dubitationis tenebræ diffugerunt.

¹ Augustin. Epist. cxix. ad Januar. c. xx. (vol. ii. p. 108. C.) Hi vero, qui de paginis evangelicis sortes legunt, etsi optandum est, ut hoc potius faciant, quam ad dæmonia consulenda concurrant ; tamen etiam ista mihi displicet consuetudo, ad negotia sæcularia, et ad vitæ hujus vanitatem, propter aliam vitam loquentia oracula divina velle convertere.

^m August. Epist. clxxx. ad Honorat. Quæ disceptatio si aliter non potuerit terminari, quantum mihi videtur, qui maneant et qui fugiant, sorte legendi sunt. (vol. ii. p. 633. A 9.)

ⁿ Augustin. de Doctrin. Christiana, lib. i. c. xxviii. Si tibi abundaret aliquid, quod dari oporteret ei qui non haberet, nec duobus dari posset, si tibi occurrerent duo, quorum neuter alium vel indigentia, vel erga te aliqua necessitudine superaret ; nihil justius faceres, quam ut sorte legeres, cui dandum esset quod dari utrique non posset. (vol. iii. p. 11. A.)

never made any laws to forbid or censure them, save only in disposing of ecclesiastical offices, and the lives of men, which are too sacred to be committed to mere chance or lots without some special divine direction, as in the case of Matthias and Jonas, which St. Jerom^o says are not to be drawn into example; because “special privileges cannot make a common or general law for all cases:” and it is plain, that without such special direction, lots of that kind will be matter of mere chance, or else pure divination.

SECT. IV.—*Of Divination by express Compact with Satan.*

There were some other ways of divination far more abominable than the former, because they were done by express compact with the devil, and always implied his concurrence and assistance. Sometimes he gave answers by his images and idols, which were called oracles. Sometimes by speaking in his prophets, whom he possessed, who were called ‘Pythonici’ and ‘Pythonissæ,’ possessed with a familiar, or spirit of divination; and ἐγγαστριμυθοί, because they spake out of the belly by the navel. Sometimes men used certain ceremonies in sleeping, in such a posture, in a temple, in the skins of the sacrifices, &c. to receive his impressions and answers by dreams, which was called *ὄνειρομαντεία*. Sometimes he gave answers by spectres and appearances from the dead, as he did to Saul by the witch of Endor. This they properly called ‘necromancy,’ that is, divination by the dead. Sometimes he spake by the skull of a dead man, called *κρانيομαντεία*. Sometimes he gave answers by certain signs and figures made in the earth, or water, or air, or fire, or a glass, or a riddle, and a thousand other ways of imposture, either by real appearances, or by deluding the imagination. The names of which and the transactions may be seen in Delrio,^p or Lessius,^q or Du Moulin,^r who treat more particularly of them. That which is to our

^o Hieron. in Joan. i. Nec statim debemus sub hoc exemplo sortibus credere, vel illud de Actibus Apostolorum huic testimonio copulare, ubi sorte in apostolatum Matthias eligitur: quum privilegia singulorum non possint facere legem communem.

^p Delrio, Disquisit. Magic. lib. iv. cap. ii. pag. 564—636, edit. Colon. Agrip. 1679. 4to.

^q Lessius, de Jure et Instit. lib. ii. c. xliii. dubit. v.

^r Molinæi Vates, lib. iii. c. vi. seqq. pag. 95, seq. edit. Gorinch. 1672.

present purpose, is only to observe, that as this crime had in it a mixture of idolatry, heresy, infidelity, apostasy, sacrilege, hypocrisy, curiosity, and ambition; each one of which was an high crime in itself; so the Church was always careful to lay the heaviest censure of excommunication upon it. The general name, under which all the species of it are condemned, is *μαντεία*, prophesying, or divining, by Satan's inspiration. In the Constitutions^{*}, among those that are to be denied baptism, the *μάνται*, oracle-mongers, are particularly specified. And in the Council of Ancyra[†] those that follow after such diviners, *οἱ καταμαντευόμενοι*, or take them into their houses to exercise their wicked arts, are to be excluded from communion, and do five years' penance. By a law of Constantius[‡] in the Theodosian code, the Vates and Harioli are reckoned among others who practise forbidden arts, such as soothsayers, astrologers, augurs, Chaldeans, magicians: and both they that use such curious divinations, and they that consult them, are condemned to die, as guilty of a capital crime and offence against religion. Gothofred[×] observes, that this law is often mentioned with some regret by the heathen writers Ammianus Marcellinus,

^{*} Constitut. lib. viii. c. xxxii. vid. sup. § i. sub litt. (g) p. 47.

[†] Concil. Ancyr. c. xxiv. (Labbé, vol. i. p. 1464.) *Οἱ καταμαντευόμενοι, καὶ ταῖς συνθηλαῖς τῶν ἐθνῶν [χρόνων] ἐξακολουθοῦντες, ἢ εἰσαγοντίς τινας εἰς τοὺς ἐαυτῶν οἴκους ἐπὶ ἀνευρίσει φαρμακειῶν, ἢ καὶ καθάρσει, ὑπὸ τὸν κανόνα πιπτέωσαν τῆς πενταετίας κατὰ τοὺς βαθμοὺς ὠρισμένους, τρία ἔτη ὑποπτώσεως, καὶ δύο ἔτη εὐχῆς χωρὶς προσφορᾶς.*—Basil. can. lxxii. *Ὁ μάντεσιν ἐαυτὸν ἐπιδοὺς, ἢ τισι τοιοῦτοις, τὸν χρόνον τῶν φονέων καὶ αὐτὸς ἐπιτιμηθήσεται.* (Labbé, ii. 1352.)

[‡] Cod. Theodos. lib. ix. tit. xvi. de maleficis et mathematicis, leg. iv. *Nemo haruspicum consulat, aut mathematicum, nemo hariolum. Augurum et vatium prava confessio conticescat. Chaldaei ac magi, et ceteri, quos maleficos ob facinorum magnitudinem vulgus appellat, nec ad hanc partem aliquid moliantur. Sileat omnibus perpetuo divinandi curiositas: etenim supplicium capitis feret gladio ultore prostratus, quicumque jussis obsequium denegaverit.* (vol. iii. 119.)

[×] Gothofred in loc. Sane Constantii legem memorat quoque Libanius de vita sua, p. 11. ubi agit de Crispinis Heracleotis patruo: *ὑπὸ τοῦ θείου τινὸς ὡς ἀληθῶς ἀνθρώπου καὶ πλείω τε θεοῖς ἢ ἀνθρώποις ὁμιλήσαντος ἐν γῇ· καὶ τοίγχε νόμος εἶργε, καὶ ἦν ἡ δίκη τῷ τολμῶντι θάνατος.* 'Legem,' ait, 'latam adversus divinos et vates, qua poena mortis his indicta.' Eodemque refert Libanii locum orat. xxi. ad Theodosium, (p. 393.) ubi Juliani nomen loco Constantii infartum: et poenam ignis impositam ibidem testatur. Capitale igitur id, vetitumque sub Constantio, ut præter Ammianum Marcellinum pluribus locis, docet quoque Libanius dicta oratione. Mamertinus, in Grat. Act. ad Julianum; et tot Constantii leges adversus id. Ammiani Marcellini locus heic inter alios sternendus

Mamertinus, and Libanius, who give some instances of Constantius's severity in putting it in execution. Constantine by a former law or two^y had indulged the heathen in the liberty of consulting their augurs, provided they did it in public, and never put any questions concerning the state of the commonwealth or the life of the prince; which is noted also by Julius Firmicus Maternus^z in his books of astrology written whilst he was an heathen: but Constantius finding great abuses made of this permission, universally prohibited all such consultations under the fore-mentioned penalty of death: which extended not only to magicians, but to the Harioli and the Vates; the former of which waited on the altars, to receive their inspiration from the fumes of the sacrifices, as Tertullian^a describes

est, quo in Gestis anni superioris (id est, A. D. 356.) hæc de eodem Constantio memorat, lib. xvi. p. 72: 'Superato Marcello, eversa que Serdica unde oriebatur, in castris Augusti per simulationem tuendæ majestatis imperatoris multa et nefanda perpetrabantur. Nam si quis super occentu soricis, vel occursu mustelæ, vel similis signi gratia consulisset quemquam peritum, aut anile incantamentum ad leniendum dolorem adhibuisset (quod medicinæ quoque admittit auctoritas) reus unde non poterat opinari delatus, raptusque in judicium pœnaliter interibat:' et quæ sequuntur: ubi inter cetera de Mavortio præfecto prætorio in hujusmodi negotiis giudice seu cognitore delegato agit. 'Re,' inquit, 'comperta, jubetur Mavortius tunc præfectus prætorio vir sublimis constantiæ, crimen acri inquisitione spectare, juncto ad audiendi societatem Ursulo largitionum Comite, severitatis itidem non improbandæ.'

^y Cod. Theodos. ibid. leg. i. Superstitioni suæ servire cupientes, poterunt publice ritum proprium exercere. Leg. ii. Qui id vobis existimatis conducere, adite aras publicas atque delubra, et consuetudinis vestræ celebrare solemnia: nec enim prohibemus præteritæ usurpationis officia libera luce tractari.

^z Firmic. de Mathesi sive Astronom. lib. ii. in fine: Dabis sane responsa publice, et hoc interrogaturis ante prædicito, quod omnia quidem illa, de quibus interrogant te, clara sis voce dicturus: ne quid a te tale forte quæratur, quod non liceat nec interrogare nec dicere. Cave, ne quando de statu reipublicæ vel de vita Romani imperatoris aliquid interroganti respondeas. Non enim oportet nec licet, ut de statu reipublicæ aliquid nefaria curiositate dicamus. Sed et sceleratus atque animadversione dignus est, si quis interrogatus de fato dixerit imperatoris, quia nec dicere poteris de eo aliquid, nec invenire. Scire enim te convenit, quod et aruspices quotiescumque a privatis interrogati de statu imperatoris fuerint, et quærenti respondere voluerint, exta semper quæ ad hoc fuerint destinata, ac venarum ordines involuta confusione conturbent. . . . Numquam nocturnis sacrificiis intersis, sive illa publica, sive privata dicantur, nec secrete cum aliquo fabulas conferas, sed palam sub conspectu omnium istius divinæ artis exerce disciplinam.

^a Tertull. Apol. c. xxiii. Qui aris inhalantes numen de nidore concipiunt.

them ; and the latter, the Vates, were those who pretended to prophesy by the perpetual motion of an in-dwelling dæmon ; whom therefore the Latins called Fanatici, and the Greeks Enthusiastics, and Θεόληπτοι, and Θεοφορούμενοι, &c. as may be seen in Theodoret^b and Suidas,^c and many others. Now because no Christian could practise this art, nor consult those that did, without direct communicating with devils, therefore the civil law made it a capital crime, and the ecclesiastical law punished it with the severest censure of excommunication.

SECT. V.—Of Magical Enchantment and Sorcery,

Next to the superstition of divination was that of magic and sorcery ; which because it commonly tended to work mischief, therefore they who gave themselves to it were usually termed Venefici and Malefici, because either by poison or other means of fascination they wrought pernicious effects upon others. The laws of the Theodosian code^d frequently brand them with this name of Malefici. Particularly they are charged by Constantine^e as making attempts by their wicked arts upon the

^b Theodos. Hist. lib. iv. c. xi. ἐνθουσιασταὶ καλοῦνται, δαίμονός τινος ἐνεργείας εἰσδεχόμενοι.

^c Suid. voce ἐνθους. "Ἐνθους τε θεοφορούμενος ἐνθουσιῶν.—Harmenopol. de sectis, n. xviii. de Messalianis. (ap. Leunclav. in jure Græco-Roman. tom. i. p. 551.) καλοῦνται δὲ ἐκ τοῦ πράγματος καὶ ἐνθουσιασταὶ· δαίμονος γὰρ ἐνέργειαν λαβόντες, Πνεύματος ἁγίου εἶναι ταύτην ὑπολαμβάνουσιν.

^d Cod. Theodos. lib. ix. tit. xvi. de maleficiis leg. vi. (vol. iii. 124.) Magus vel magicis cantaminibus adsuetus, qui 'maleficus' vulgi consuetudine nuncupatur, &c. Leg. ix. Haruspicinam ego nullum cum maleficiorum causis habere consortium judico. Leg. x. Nonnulli ex ordine senatorio maleficiorum insimulatione atque invidia stringebantur. Leg. xi. Quicumque maleficiorum labe pollutum audierit, &c. Tit. xxxviii. de indulgentiis criminum leg. i. Propter Crispi atque Helenæ partum omnibus indulgemus, præter veneficos, homicidas, adulteros. Leg. iii. Ob diem paschæ . . . omnibus quos reatus adstringit, carcer inclusit, claustra dissolvimus : attamen sacrilegus, in majestate reus, in mortuos veneficus, sive maleficus, adulter, raptor, homicida, communione istius muneris separentur. Leg. iv. Paschæ celebritas postulat, ut quoscumque nunc ægra exspectatio quæstionis, penæque formido sollicitat, absolvamus : decretis tamen veterum mos gerendus est, ne temere homicidii crimen, adulterii fœditatem, majestatis injuriam, maleficiorum scelus, insidias venenorum raptusque violentiam sinamus evadere. (p. 273.) Vid. ibid. leg. vi. vii. viii. cit. infr. cap. x. § i. sub litt. (a).

^e Cod. Theodos. lib. ix. tit. xvi. leg. iii. (p. 116.) Eorum est scientia punienda, et severissimis merito legibus vindicanda, qui magicis adincti artibus, aut contra hominum moliti salutem, aut pudicos ad libidinem defixisse animos detegentur.

lives of innocent men, and drawing others by magical potions (called Philtra and Pharmaca) to commit uncleanness. All such, when they are detected, are appointed to be put to death. Constantius^f charges them farther with disturbing the elements, or raising of tempests, and practising abominable arts in the evocation of the infernal spirits to assist men in destroying their enemies; whom he therefore orders to be executed, as unnatural monsters, and quite divested of the principles of humanity. And it is observable, that in all those laws of the Christian emperors, which granted indulgence to criminals at the Easter-festival,^g the Venefici and the Malefici, (that is, magical practisers against the lives of men,) are always excepted, as guilty of too heinous a crime to be comprised within the general pardon granted to other offenders. And according to these measures the laws of the Church were strict and severe against all such, under whatever character or denomination they were found guilty. The Council of Laodicea^h condemns them under the name of Magicians and Enchanters, together with those called Mathematici and Astrologers, ordering all such to be cast out of the Church. The Council of Ancyraⁱ forbids the art under the name of 'pharmacy,' *φαρμακεία*, that is, the magical art of inventing and preparing medicaments to do mischief: and five years' penance is there appointed for any one that receives a magician into his house for that purpose. St. Basil's canons^k condemn it under the same character of pharmacy or witchcraft, and lay thirty years' penance upon it. And the fourth Council of Carthage censures it under the name of 'enchant-

^f Ibid. leg. v. Multi magicis artibus ausi elementa turbare, vitas insontium labefactare non dubitant, et manibus accitis audent ventilare, ut quisque suos conficiat malis artibus inimicos. Hos quoniam naturæ peregrini sunt, feralis pestis absumat.

^g Vid. cod. Theodos. lib. ix. tit. xxxviii. de indulgentiis criminum leg. i. iii. cit. sub litt. (d). Ibid. leg. iv. vi. vii. viii. cit. cap. iv. § ii. sub litt. (c) (d) (e) p. 194, 195.

^h Concil. Laodic. can. xxxvi. (Labbé, vol. i. p. 1504.) "Οτι οὐ δεῖ ἱερατικοὺς ἢ κληρικοὺς, μάγους ἢ ἱερακοῦς εἶναι, ἢ μαθηματικοὺς ἢ ἀστρολόγους, ἢ ποιεῖν τὰ λεγόμενα φυλακτήρια, ἀτινά ἐστι δεσμωτήρια τῶν ψυχῶν αὐτῶν· τοὺς δὲ φοροῦντας ῥίπτεσθαι ἐκ τῆς ἐκκλησίας ἐκελεύσαμεν.

ⁱ Concil. Ancyran. c. xxv. see note (t) p. 58.

^k Basil. can. vii. Φαρμακοὶ, καὶ μοιχοὶ, καὶ εἰδωλολάτραι, τῆς αὐτῆς καταδίκης εἰσὶν ἡξωμένοι. Can. lxx. 'Ο γοητεῖαν ἢ φαρμακείαν ἐξαγορεύων, τὸν τοῦ φονέως χρόνον ἐξομολογῆσεται. (Labbé, ii. 1734. et 1750.)

ment,¹ joining it with augury, and denying communion to all such as follow after either; not to mention what private writers, Origen,^m Tertullian,ⁿ Hermas Pastor,^o and many others have said against it: Tertullian particularly observing, that there never was a magician or enchanter allowed to escape unpunished in the Church.

SECT. VI.—*Of Amulets, Charms, and Spells, to cure Diseases.*

But there was one sort of enchantment, which many ignorant and superstitious Christians, out of the remains of heathen error, much affected: that was the use of charms and amulets, and spells, to cure diseases, or avert dangers and mischiefs both from themselves and the fruits of the earth. For Constantine had allowed the heathen, in the beginning of his reformation, for some time not only to consult their augurs in public, but also to use charms by way of remedy^p for bodily distempers, and to prevent storms of rain and hail from injuring the ripe fruits; as appears from that very law, where he condemns the other sort of magic, that tended to do mischief, to be punished with death. And probably from this indulgence granted to the heathen, many Christians, who brought a tincture of heathenism with them into their religion, might take

¹ Concil. Carthagin. IV. c. lxxxix. Auguriis vel incantationibus servientem, a conventu ecclesiae separandum. (Labbé, vol. ii. p. 1206.)

^m Orig. contr. Celsum, lib. vii. p. 378. (Cantabr. 1677.) Οὐ χρὴ Θεραπεύειν δαίμονας, ὅστις σέβει Θεόν· δηλοῦται δὲ τὰ περὶ τοὺς δαίμονας καὶ ἐκ τῶν καλούντων δαίμονας ἐπὶ τοῖς ὀνομαζομένοις φίλτροις, ἢ μισήτροις, ἢ ἐπὶ κωλύσσει πράξεων, ἢ ἄλλων τοιούτων μυρίων· ἅπερ ποιοῦσιν οἱ δι' ἐκπῶδων καὶ μαγγανιῶν μεμαθηκότες καλεῖν καὶ ἐκάγεσθαι δαίμονας ἐφ' ᾧ βούλονται· διόπερ ἡ πάντων δαιμόνων Θεραπεία ἀλλοτρία ἡμῶν ἐστι, τῶν σεβόντων τὸν ἐπὶ πᾶσι Θεόν.

ⁿ Tertul. de Idol. c. ix. (Paris. 1664. p. 90. B.) Post evangelium, nusquam invenies aut sophistas, aut Chaldaeos, aut incantatores, aut conjectores, aut magos, nisi plane punitos.

^o Hermes Past. lib. i. vision. iii. n. vi. Malefici quidem venena sua in pyxidibus bajulant.

^p Cod. Theodos. lib. ix. tit. xvi. de Malefic. leg. iii. Nullis criminationibus implicanda sunt remedia humanis quaesita corporibus, aut in agrestibus locis, ne maturis vindemiis metuerentur imbres, aut ruentis grandinis lapidatione quaterentur, adhibita innocenter suffragia, quibus non cujusque salus aut existimatio laederetur, sed quorum proficerent actus, ne divina munera et labores hominum sternerentur. (Lugdun. 1665. vol. iii. p. 116.)

occasion to think there was no great harm in such charms or enchantments, when the design was only to do good and not evil. However it was, this is certain in fact, that many Christians were much inclined to this practice, and therefore made use of charms and amulets, which they called periammata and phylacteria, pendants and preservatives to secure themselves from danger, and drive away bodily distempers. These phylacteries, as they called them, were a sort of amulets made of ribbons, with a text of Scripture or some other charm of words written in them, which they imagined without any natural means to be effectual remedies or preservatives against diseases. Therefore the Church, to root out this superstition out of men's minds, was forced to make severe laws against it. The Council of Laodicea⁹ condemns clergymen that pretended to make such phylacteries, which were rather to be called bonds and fetters for their own souls; and orders all such as wore them, to be cast out of the Church. St. Chrysostom often mentions them with some indignation: upon those words of the Psalmist, "I will rejoice in thy salvation,"^r he says, "We ought not simply to desire to be saved, and delivered from evil by any means whatever, but only by God. And this I say upon the account of those who use enchantments in diseases, and seek to relieve their infirmities by other impostures. For this is not salvation, but destruction." In another place dissuading Christians from running to the Jews, who pretended to cure diseases by such methods, he tells them, that "Christians are to obey Christ, and not to fly to his enemies: though they pretend to make cures, and promise you a remedy to invite you to them, choose rather to discover their impostures,^s their enchantments, their amulets,

⁹ Concil. Laodicen. c. xxxvi. vide sub litt. anteced. (h).

^r Chrysost. in Psalm. ix. 15. p. 137. D. 2. (p. 117. circ. fin. edit. Francof.) Οὕτω δὴ καὶ ἡμεῖς μὴ πάντως σωθῆναι ζητήσωμεν, μὴ πάντως ἀπαλλαγῆναι τῶν δεινῶν παντὶ τρόπῳ, ἀλλὰ κατὰ Θεόν· τοῦτο δὲ λέγω διὰ τοῦς ἰκαιοδαῖς χρωμένους ἐν ταῖς νόσοις, καὶ ἑτέρας μαγγανείας ἐπιζητούντας εἰς παραμυθίαν τῆς ἀβήρωσιος· τοῦτο γὰρ οὐχὶ σωθῆναι ἐστίν, ἀλλ' ἀπολίσθαι.

^s Chrysost. Homil. vi. contr. Judæos, tom. i. p. 536. B 9. (p. 473, edit. Francof.) Χριστιανοὶ διὰ τοῦτο καλοῦμεθα καὶ ἰσμεν, ἵνα τῷ Χριστῷ πειωμέθα, οὐχ ἵνα πρὸς τοὺς ἐχθροὺς τρέχωμεν· ἂν δὲ τινὰς θεραπείας προτείνηται, καὶ λέγῃ πρὸς σε, "Ὅτι ὑπὸ σκηνῶν θεραπείαι, καὶ διὰ τοῦτο πρὸς αὐτοὺς τρέχω· ἀνακάλυψον αὐτῷ τὰς μαγγανείας, τὰς ἐπωδάς, τὰ περιάμματα, τὰς φαρμα-

their witchcraft: for they pretend to work cures no other way; neither indeed do they work them truly at all, God forbid. But I will say one thing farther, although they did work true cures, it were better to die, than to go to the enemies of Christ, and be cured after that manner. For what profit is it, to have the body cured with the loss of our soul? what advantage, what comfort shall we get thereby, when we must shortly be sent into everlasting fire?" He there proposes the example of Job, and Lazarus, and the infirm man who had waited at the pool of Bethesda thirty and eight years, who never betook themselves to any diviner, or enchanter, or juggler, or impostor: they tied no amulets nor plates to their bodies, but expected their help only from the Lord: and Lazarus chose rather to die in his sickness and sores, than betray his religion in any wise, by having recourse to those forbidden arts for cure. This he reckons a sort of martyrdom,^c when men choose rather to die, or suffer their children to die, than make use of amulets and charms: for though they do not sacrifice their bodies with their own hands, as Abraham did his son, yet they offer a mental sacrifice to God. On the contrary, he says, the use of amulets was idolatry, though they that made a gain by it, offered a thousand philosophical arguments to defend it, saying we only pray to God, and do nothing more; and, the old woman that made them was a Christian and a believer,

κείας· οὐδὲ γὰρ ἄλλω τινὶ τρόπῳ δοκοῦσι θεραπεύειν, οὐδὲ γὰρ θεραπεύουσι κατὰ ἀλήθειαν, μὴ γένοιτο. Ἐγὼ δὲ καὶ ὑπερβολὴν ποιῶμαι πολλήν, καὶ ἐκεῖνο λέγω, "Ὅτι εἰ καὶ θεραπεύουσιν ἀληθῶς, βέλτιον ἀποθανεῖν, ἢ τοῖς ἐχθροῖς τοῦ Θεοῦ προσδραμεῖν, καὶ τοῦτον θεραπευθῆναι τὸν τρόπον. τί γὰρ ὄφελος, σῶμα θεραπεύεσθαι, τῆς ψυχῆς ἀπολλυμένης; τί δὲ κέρδος, ἐνταῦθα τινας τυγχάνειν παραμυθίας, μέλλοντας εἰς τὸ ἀθάνατον παραπίμπεσθαι πῦρ;

^c Chrysostom. Hom. viii. in Coloss. p. 1374. (p. 220, edit. Francof.) Πάλιν ἐνόσησεν, οὐκ ἐποίησε περίαπτα· μαρτύριον αὐτῇ λογίζεται· κατέθυσε γὰρ τὸν υἱὸν τῇ γνώμῃ. τί γὰρ εἰ καὶ μὴδὲν ὠφελεῖ ἐκεῖνα, ἀλλ' ἀπάτης ἐστὶ καὶ χλεύης; ἀλλ' ὅμως ἦσαν οἱ πείθοντες, ὅτι ὠφελεῖ· καὶ εἴλετο μᾶλλον νεκρὸν τὸ παιδίον ἰδεῖν, ἢ εἰδωλολατρίας ἀνασχέσθαι. . . μᾶλλον δὲ ἤδη ἐποίησε τὸ τῆς θυσίας. τὰ γὰρ περίαπτα, κὰν μυρία φιλοσοφῶσιν οἱ ἐκ τούτων χρηματιζόμενοι, λέγοντες ὅτι τὸν Θεὸν καλοῦμεν, καὶ οὐδὲν πλεον ποιούμεν, καὶ ὅσα τοιαῦτα, καὶ Χριστιανῇ ἐστὶν (φησὶν) ἡ γραῦς καὶ πιστῇ, εἰδωλολατρεῖα τὸ πρᾶγμα ἐστὶ. πιστῇ εἰ; σφράγισον· ἐπὶ, τοῦτο ἔχω τὸ ὕπλον μόνον, τοῦτο τὸ φάρμακον· ἄλλο δὲ οὐκ οἶδα. Εἰπέ μοι, ἐὰν προσελθὼν ἱατρὸς, καὶ τὰ τῆς ἱατρικῆς φάρμακα ἀφείς, ἐπάδῃ, τοῦτον ἱατρὸν ἱροῦμεν; οὐδαμῶς· τὰ γὰρ τῆς ἱατρικῆς οὐκ ὀρώμεν φάρμακα· οὕτως οὐδὲ ἐνταῦθα τὰ τοῦ Χριστιανισμοῦ.

with other such like excuses. If thou art a believer, sign thyself with the sign of the cross; say, This is my armour, this my medicament; beside this I know no other. Suppose a physician should come, and instead of medicines belonging to his art should use enchantment only: would you call him a physician? No, in no wise: because we see not medicines proper to his calling: so neither are your medicines proper to the calling of a Christian." He adds, that some women put the names of rivers into their charms; and others ashes, and soot, and salt, crying out, that the child was taken with an evil eye; and a thousand ridiculous things of the like nature, which exposed Christians to the scorn of the heathen, many of whom were wiser than to hearken to any such fond impostures. Upon the whole matter he tells them, that if he found any henceforward that made amulets or charms, or did any other thing belonging to this art, he would no longer spare them; meaning that they should feel the severity of ecclesiastical censure for such offences. In other places^u he complains of women that made phylacteries of the Gospels, to hang about their necks. And the like complaints are made by St. Basil,^x and Epiphanius.^y Which shews that this piece of superstition, of trying to cure diseases without physic, was deeply rooted in the hearts of many Christians.

The Church indeed often cured diseases without physic; but then it was in the same way that she dispossessed devils, and wrought many miracles for the good of the world, by the power of Christ, and invocation of his name. "She did

^u Chrysost. Homil. lxxiii. in Matth. (p. 772, edit. Francof.) Ἡ φυλακτήρια ἐκάλουν· ὡς πολλὰ νῦν τῶν γυναικῶν εὐαγγέλια τῶν τραχέλων ἐξαρτῶσαι ἔχουσι. (Explan. in N. T. Paris. 1636. vol. i. p. 627. B.)

^x Basil. in Psalm. xlv. p. 229. A. 8. "Ὅταν ἐν ταῖς θλίψεσιν ἐπὶ πάντα μᾶλλον ἢ ἐπὶ τὸν Θεὸν τρέχωμεν· νοσεῖ τὸ παιδίον; καὶ σὺ τὸν ἰπαιοῦδον περισκοπεῖς, ἢ τὸν τοῦς περιέρχοντος χαρακτήρας τοῖς τραχήλοις τῶν ἀναιτίων νηπίων περιτιθέντα, κ. τ. λ. (Paris. 1638. vol. i.)

^y Epiphanius. Hæres. xv. vol. i. p. 32. D. de scribis. [Not. Nihil heic de feminis phylacteria gestantibus invenio, etsi quædam de scribarum phylacteriis dicat: Grischov. :] καὶ φυλακτήρια παρ' ἐαντοῖς ἐπὶ τὰ ἱμάτια ἐπετίθετο, τουτέστι πλατῆα σήματα πορφύρας· νομίσειε δ' ἂν τις, ἐπειδὴ περ καὶ ἐν τῷ εὐαγγελίῳ τοῦτο ἐμφέρεται, μὴ ἄρα περὶ περιάπτων λέγει. ἐπειδὴ γὰρ καὶ εἰωθασί τινες τὰ περιapta φυλακτήρια ὀνομάζειν· οὐκ ἔχει δὲ ὁ λόγος τὸ παράπαν περὶ τούτου. (Paris. 1622.)

nothing," as Irenæus^a says, "by invocation of angels, or enchantment, or any other curiosity, but by directing her prayers, pure and clean, and openly to the God that made all things; and by invoking the name of the Lord Jesus Christ, she wrought miracles for the benefit of men, and not for their seduction." This was the difference between heretics and the Church: heretics commonly made use of enchantment, as is noted particularly by Irenæus concerning the Basilidians,^a who had their images, which they used as amulets, having the name of Abraxas or Abracadabra; or as Baronius^b thinks, the names of their three hundred and sixty-five heavens, answering to the like number of members in human bodies, written upon them. And St. Austin complains that some of Satan's instruments, who professed the exercise of these arts, were used to set the name of Christ^c before their ligatures, and enchantments, and other devices, to seduce Christians, and induce them to take the venomous bait under the covert of a sweet and honey-potion, that the bitter might lie hid under the sweet, and make men drink it without discerning, to their destruction. To such he gives this advice, to seek Christ only in the way which He has appointed. "When we are

^a Iren. lib. ii. c. lvii. Non invocationibus angelicis facit (ecclesia) aliquid, nec incantationibus, nec reliqua prava curiositate; sed munde et pure, et manifeste orationes dirigens ad Dominum, qui omnia fecit, et nomen Domini nostri Jesu Christi invocans, virtutes secundum utilitates hominum, sed non ad seductionem perficit.

^a Iren. lib. i. c. xxiii. Utuntur hi magia et incantationibus et invocationibus et reliqua universa periergia, &c.

^b Baron. an. cxx. n. x. (n. xiii. xiv. xv. edit. Antverp. 1617.)

^c August. tract. vii. in Joan. tom. ix. p. 37. (p. 63, 64, edit. Basil. 1569.) (Antverp. 1700. vol. iii. 2d pt. p. 251.) Fingunt spiritus mali umbras quasdam honoris sibimet ipsis, ut sic decipiant eos, qui sequuntur Christum. Usque adeo, ut illi ipsi, qui seducunt per ligaturas, per præcantationes, per machinamenta inimici, misceant præcantationibus suis nomen Christi: quia jam non possunt seducere Christianos, ut dent venenum, addunt mellis aliquid, ut per id quod dulce est, lateat quod amarum est, et bibatur ad perniciem. . . . Non, quando nobis dolet caput, curramus ad præcantatores, ad sortilegos et remedia vanitatis. Fratres mei, non vos plangam? Quotidie invenio ista: et quid faciam? Nondum persuadeo Christianis in Christo spem esse ponendam. Ecce, si cui factum est remedium, moriatur, (quam multi enim cum remediis mortui sunt, et quam multi sine remediis vixerunt) qua fronte exiit anima ad Deum? Perdidit signum Christi, accepit signum diaboli.

afflicted with pains in our head, let us not run to enchanters and fortune-tellers, and remedies of vanity. I mourn for you, my brethren; for I daily find these things done. And what shall I do? I cannot yet persuade Christians to put their trust only in Christ. With what face can such a soul go unto God, that has lost the sign of Christ, and taken upon him the sign of the devil?" In another place, he bids^d them, when they are sick, to receive the body and blood of Christ, and anoint themselves with that unction, which may prove beneficial both to body and soul. For when they may have a double advantage in the Church, why should miserable men endeavour to bring upon themselves such multiplicity of evils by running to enchanters, and fountains, and trees, and diabolical phylacteries, and characters, and soothsayers, and diviners, and fortune-tellers?—He mentions many other superstitions of the like nature, which were the remains of heathenism; such as the sacrilegious custom used about the hind; their crying out when the moon was eclipsed, to defend themselves from witchcraft; their keeping Thursday holiday in honour of Jupiter; concerning all which he concludes, that they who still continued to follow such vanities, ought to be reprov'd^e by their fellow-Christians; and if, after that, they did not amend their ways, they should thenceforward banish them from all society both in eating and conversation.—Some think this homily rather belongs to Cæsarius Arelatensis; and if so, it only shews that this crime prevailed among some in

^d Aug. serm. cexv. de tempore. (tom. x. Opp. p. 1070, edit. Basil. 1569.) (Antwerp. 1700. vol. v. append. p. 309. C.) Quoties aliqua infirmitas supervenerit, corpus et sanguinem Christi ille, qui ægrotat, accipiat; et inde corpusculum suum unguat, ut illud, quod scriptum est, impleatur in eo, 'Infirmatur aliquis, inducat presbyteros, et orent super eum, unguentes eum oleo, et oratio fidei salvabit infirmum, et allevabit eum Dominus: et si in peccatis sit, dimittentur ei.' Videte, fratres, quia qui in infirmitate ad ecclesiam cucurrerit, et corporis sanitatem recipere, et peccatorum indulgentiam merebitur obtinere. Quum ergo duplicia bona possint in ecclesia inveniri, quare per præcantatores, per fontes et arbores et diabolica phylacteria, per characteres et haruspices et divinos vel sortilegos multiplicia sibi mala miseri homines conantur inferre?—Vide sis lib. ii. c. xx. de doctrin. Christ. infra § viii. sub litt. (a).

• Ibid. p. 1071. Quoscumque tales esse cognoveritis, durissime castigate: et si emendare noluerint, nec ad colloquium nec ad convivium vestrum eos venire permittite. (p. 310 A.)

France, as it did for many ages after ; which appears from the capitulars of Charles the Great,^f where decrees were made against calculators, enchanters, and ‘tempestrians,’ as they are called, that is, raisers of storms and tempests, and ‘obligators,’ or makers of phylacteries to bind about the neck : who are also noted and condemned in the Council of Rome^g under Gregory II. an. 721 ; and in the Council of Trullo,^h which forbids any one to consult diviners, or those called Centenarii, or any such, to discover secrets, under the penalty of six years’ penance, according to the rules of the ancient fathers. “ And the same penalty is imposed upon those who carry about she-bears *πρὸς παίγνιον*, to the delusion and hurt of the people, and use the words, fortune, and fate, and genealogy, and such like names to impose upon the simple. Also all observers of the clouds, and jugglers, and makers of phylacteries,ⁱ and diviners, persisting in their heathenish and pernicious practices, are ordered to be cast out of the Church. ‘For what communion,’ says the Apostle, ‘hath light with darkness? And what agreement hath the temple of God with idols? And what part hath he that believeth, with an infidel? And what concord hath Christ with Belial?’ ” It is plain from this, there were still some re-

^f Capit. Aquisgran. lib. i. c. lxiv. Labbé, tom. vii. p. 984.

^g Concil. Roman. can. xii. (iv. 1457.) Si quis hariolos, haruspices, vel incantatores observaverit, aut phylacteriis usus fuerit, anathema sit. Vide capit. Martin. Bracaren. c. lxxii. Non liceat Christianis tenere traditiones gentilium, et observare vel colere elementa ; aut lunam aut stellarum cursum, et inanem signorum fallaciam considerare, pro domo facienda et ad conjugia socianda : scriptum est enim : Omnia quaecumque facitis in verbo, aut in opere, in nomine Domini nostri Jesu Christi facite, gratias agentes Deo. Si quis fecerit, severissime corripitur, et canonicè poeniteat.

^h Concil. Trullan. c. lxi. (Labbé, vi. p. 1170.) Οἱ μάντεσιν ἑαυτοὺς ἐπιιδόντες, ἢ τοῖς λεγομένοις ἑκατοντάρχαις, ἢ τισι τοιούτοις, ὡς ἂν παρ’ ἐκείνων μάθοιεν, εἴ τι ἂν αὐτοῖς ἐκκαλύπτεσθαι βούλοιντο, κατὰ τὰ πρῆψη ὑπὸ τῶν πατέρων περὶ αὐτῶν ὁρισθέντα ὑπὸ τὸν κανόνα πιπτίτωσαν τῆς ἑξαιτίας.

ⁱ Ibid. p. 1170. Τῷ αὐτῷ δὲ τούτῳ ἐπιτιμίῃ καθυποβάλλεσθαι δεῖ καὶ τοὺς τὰς ἀρκτους ἐπισυρομένους, ἢ τοιαῦτα ζῶα, πρὸς παίγνιον καὶ βλάβην τῶν ἀπλουστέρων· καὶ τύχην, καὶ εἰμαρμένην, καὶ γενεαλογίαν, καὶ τοιούτων τινῶν ῥημάτων ὄχλον κατὰ τοὺς τῆς πλάνης λήρους φωνοῦντας· τοὺς τε λεγομένους νεφιδιώκτας, καὶ γοητευτάς, καὶ φυλακτηρίους, καὶ μάντεας ἐπιμένοντας δὲ τούτοις καὶ μὴ μετατιθεμένους καὶ ἀποφεύγοντας τὰ ὀλέθρια ταῦτα καὶ Ἑλληνικὰ ἐπιτηδεύματα, παντάπασιν ἀπορρίπτεσθαι τῆς ἐκκλησίας ὀρίζομεν, καθὰ καὶ οἱ ἱεροὶ κανόνες διαγορεύουσι· τίς γὰρ κοινωνία φωτὶ πρὸς σκότος; κ. τ. λ.

mains of heathenish superstition and idolatry among Christians, especially in the use of phylacteries and divining, and other such vain observations. But it is hard to guess, what are meant by centurions, who are here joined with diviners, and forbidden to be consulted. There is a law of Honorius^k in the Theodosian code, which Gothofred thinks may give a little light to this canon. For there the Chiliarchæ and Centenarii, captains of thousands, and captains of hundreds, are plainly spoken of as leaders of the people, and managers in ordering the idolatrous pomps of the Gentiles; being joined with the Frediani and Dendrophori, which he shews to be those officers in the pomp, who carried the images of the gods on their shoulders in procession. They were the chief of certain corporations or companies, who are mentioned in another law of Honorius under the names of Collegiati and Vituriarii (or Didumarii), the officers of Apollo Didumæus; and Nemesiaci, the officers of the goddess Nemesis, good fortune, and the dispenser of fate; and Signiferi and Cantabrarii, who carried the ensigns and banners of their gods in their pomps, and games, and festivals.^l And these, as Gothofred shews out of Commodianus^m a Christian poet, pretended to divine and tell fortunes, as inspired by the gods: and they incorporated others into these colleges, as principal officers in these pomps; whence they were called Chiliarchæ and Hecatontarchæ, captains of thousands, and captains of hundreds. All which agrees with the canon of the council of Trullo, which joins the Hecatontarchæ with the Vates, or diviners, and makes them fortune-

^k Cod. Theodos. lib. xvi. tit. x. de Paganis, leg. xx. Chiliarchas insuper et centenarios, vel qui sibi plebis distributionem usurpare dicuntur, censuimus removendos. cetera. (Lugdun. 1665. vol. vi. p. 291.)

^l Cod. Theodos. lib. xiv. tit. vii. de Collegiatis, leg. ii. Collegiatis et Vituriarios et Nemesiacos, Signiferos, Cantabraros et singularum urbium corporatos, simul forma præcipimus revocari. cetera. Vide Gothofred. in loc. p. 193, 194.

^m Commodian. instruct. ad calcem Cypriani, edit. Rigaltii.

Mane ebrio, crudo, perituro creditis vino:
Ex arte qui fecte loquitur, quod illi videtur:
Severe dum agit, sibi viscera poscit:
Ipse sibi nescit divinare, cæteris audet:
Succollat, quando libet, eum, et quando deponit,
Vertitur a se rotans cum ligno bifurci,
Ac si putes illum afflatum numine ligni.

tellers, talking much of fortune and fate, and genealogies or nativities, to deceive the people. They who carried about she-bears or other animals, Balsamon¹ says, were such impostors as pretended, that the hairs of those bears, or toys tied to them, were remedies against witchcraft. And so the Council forbids all these ways of making and using charms and amulets, as the relics of heathen superstition, still remaining among the weaker and baser sort of Christians. I have been the more curious in searching into the true meaning of this canon, because it is passed over in silence by most commentators; and the reader with me must own himself beholden to the learned Gothofred for the explication of it.

SECT. VII.—*Of the Præstigiæ or false Miracles wrought by the power of Satan.*

There is another sort of impostors mentioned in the same canon, under the name of Γοητευταί, which is a general name for all that use tricks and impostures; but here it is taken in a more restrained sense, for such as pretended to work miracles by the power of magic, such as Jannes and Jambres among the Egyptians, and Simon Magus among the Jews, and Apollonius Tyanæus and other impostors among the Gentiles. They are otherwise call Θαυμαστοποιοί and Ψηφάδες² by the Greeks, and Præstigiatores by the Latin writers. Their tricks were chiefly shewed in making false appearances of things, and imposing upon men by the delusion of the outward senses.

¹ Balsam. in can. lxi. conc. Trullan. ap. Bevereg. p. 228. "Ἀρκτους ἐπισύρειν λέγονται οἱ καλούμενοι ἀρκετοτρόφοι· οἳ τινες βάμματα ἐξαρθῶσι κατὰ τῆς κεφαλῆς καὶ τοῦ ὅλου σώματος τοῦ ζώου, καὶ τρίχας κείροντες ἐκ τούτου, διδάσκειν ταύτας σὺν τοῖς βάμμασιν, ὡς φυλακτήρια, καὶ ὡς δυνάμενας λυσιτελεῖν ἐν νόσοις καὶ ἐν βασάνοις ὀφθαλμοῖς.

² Theodore. in 2 Thess. ii. 9. Διδάσκει δὲ, ὡς καὶ τὰ ἐσόμενα οὐκ ἀληθῆ διαύματα· τοιαῦτα δὲ ποιοῦσι καὶ οἱ ἀπὸ τῶν ψήφων τὰς ἐπωνυμίας ἔχοντες. — Athanas. Quæst. cxxv. ad Antioch. (tom. ii. Opp. p. 298, edit. Paris. 1698.) — (Colon. 1686. vol. ii. p. 381. D.) Οἱ λεγόμενοι ψηφάδες, καὶ πάλιν αὐτοὺς ὁ Ἀντίχριστος ἐρχόμενος ἐν φαντασίᾳ πλανᾷ τοὺς ὀφθαλμοὺς τῶν ἀνθρώπων. — Suidas voce Ψηφολόγοι· ψηφολόγοι εἰσὶν οἱ ψηφοπαῖκται· ψηφολογικοὶ γοῦν, οἱ πλανῶντες καὶ ἀπατῶντες, ὥσπερ οἱ ψηφολόγοι, τοὺς ὀφθαλμοὺς τῷ τάχει τῆς μεταθέσεως τῶν ψήφων ἀπατῶντες συναρπάζουσι. — Capitul. Aquisgran. lib. i. c. lxiv. Calculatores, incantatores, tempestarii. cetera. (Labbé, vii. p. 984.)

The ancient author of the *Recognitions* describes their art^o in the person of Simon Magus, whom he brings in giving himself this vain-glorious character: "I can make myself disappear to those that would apprehend me, and again I can appear when I please; when I am minded to fly, I can pass through mountains and stones, as through the mire; when I cast myself headlong from a precipice, I am carried as if I were sailing to the earth without harm; when I am bound, I can loose myself, and bind them that bound me; when I am close shut up in prison, I can cause the doors to open of their own accord; I can give life to statues, and make them appear as living men; I can make trees grow suddenly out of the earth, and raise up plants in a moment; I can throw myself into the fire, and not be burnt; I can change my countenance, so as not to be known; yea, I can shew myself with two faces unto men; I can make myself a sheep or a goat; I can give little children a beard; and fly in the air; I can shew much gold, or turn lead into gold; I can set up kings, and dethrone them at pleasure." Now Tertullian^p observes, that Simon Magus, for these juggling practices, and miracles belonging to his profession, was anathematized by the apostles, and cast off as an alien from the faith. And all such 'sophisters,' as he terms them, had ever the same fate from the beginning of the gospel. Which observation of Tertullian's is most certainly true, and

^o *Recognit. lib. ii. c. ix. apud Cotel. tom. i. p. 506.* Possum facere, ut volentibus me comprehendere non appaream, et rursus volens videri, palam sim: si fugere velim, montes perforem, et saxa quasi lutum pertranseam: si me de monte excelso præcipitem dederò, tamquam subvectus ad terras illæsus deferar: vinctus memet ipsum solvam; eos vero, qui me in vincula conjecerint, vinctos reddam: in carcere colligatus, claustra sponte patefieri faciam: statuas animatas reddam, ita ut putentur ab his qui vident, homines esse: novas arbores subito oriri faciam, et repentina virgulta producam: in ignem memet-ipsam injiciens, non ardeam. Vultum meum commuto, ut non agnoscar: sed et duas facies habere me possum hominibus ostendere: ovis aut capra efficiar: pueris parvis barbam producam: in aërem volando invehar: aurum plurimum ostendam: reges faciam eosque dejiciam.

^p Tertull. de Idololatr. c. ix. Exinde et Simon Magus jam fidelis, quoniam aliquid adhuc de circulatoria secta cogitaret, ut scilicet inter miracula professionis suæ etiam Spiritum-sanctum per manuum impositionem enundinaret, maledictus ab apostolis de fide ejectus est. . . Post evangelium, nusquam invenias sophistas, nisi plane punitos. (Paris. 1664. p. 90. B.)

might be confirmed by abundance of instances in ancient story; and especially of heresiarchs, or founders of new heresies, who pretended commonly to work miracles and wonders, to gain a reputation to their novel opinions. I will only mention one or two that were famous in this kind. The heretic Marcus, the father of the Marcosians, is thus described by an ancient author, who wrote before the time of Irenæus,^q in these words: "O Marcus thou idol-maker and wonder-worker, empiric in astrology and art of magic, by which thou dost propagate thy seducing doctrines, making a show of signs and miracles to them that are led into error by thee, which are the works of the apostate power, Satan thy father enables thee to do by the angelical power of Azazel, using thee as the forerunner of the antichristian deceit." And Irenæus^r himself takes notice of one of his juggling tricks; which was, that when he pretended to consecrate the eucharist in a cup of wine and water, he made it appear of a purple and red colour, by a long prayer of invocation, that it might be thought the grace from above distilled the blood into the cup by his invocation.—Such another imposture is mentioned by Firmilian in his letter to Cyprian; where he speaks of "a woman who pretended to be inspired by the Holy Ghost, but was really acted by a diabolical spirit," by

^q Ap. Iren. lib. i. c. xii. p. 76.

Εἰδωλοποιεῖ Μάρκε, καὶ τερατοσκόπε,
 Ἀστρολογικῆς ἔμπειρε καὶ μαγικῆς τέχνης,
 Δι' ὧν κρατύνεις τῆς πλάνης τὰ διδάγματα,
 Σημεῖα δεικνὺς τοῖς ὑπὸ σου πλανωμένοις,
 Ἀποστατικῆς δυνάμεως ἐγχειρήματα,
 Ἄ σοὶ χορηγεῖ ὡς πατὴρ Σατανᾶ εἰ,
 Δι' ἀγγελικῆς δυνάμεως [ἐγχειρήματα] Ἀζαζήλ ποιεῖν,
 Ἐχων σε πρόδρομον ἀντιθέου πανουργίας.

^r Iren. lib. i. c. ix. Ποτήρια οἶνῳ κεκραμένα προσποιούμενος εὐχαριστεῖν, καὶ ἐπὶ πλὴον ἐκτείνων τὸν λόγον τῆς ἐπικλήσεως, πορφύρεα καὶ ἐρυθρὰ ἀναφαίνεσθαι ποιεῖ· ὡς δοκεῖν τὴν ἀπὸ τῶν ὑπὲρ χάριν τὸ αἷμα τὸ ἐαυτῆς στάζειν ἐν τῇ ἐκείνῳ ποτηρίῳ διὰ τῆς ἐπικλήσεως αὐτοῦ.

^s Firmilian. epist. lxxv. ad Cyprian. (Oxon. 1682. p. 222.) (p. 323, edit. Fell. Amstel. 1700.) Emersit subito quædam mulier, quæ in exstasi constituta, propheten se præferret, et quasi sancto Spiritu plena sic ageret. Ita autem principalium dæmoniorum impetu ferebatur, ut per longum tempus sollicitaret et deciperet fraternitatem; ac mirabilia quædam et portentosa perficiens et facere se terram moveri polliceretur. Non quod dæmoni tanta esset potestas, aut terram movere aut elementum concutere jussu valeret; sed quod nonnumquam spiritus.

which she counterfeited ecstasies, and pretended to prophesy, and wrought many wonderful and strange things, and boasted that she would cause the earth to move. Not that the devil has so great power, either to move the earth, or shake the element by his command; but the wicked spirit foreseeing and understanding that there will be an earthquake, pretends to do that which he foresees will shortly come to pass. And by these lies and boastings, the devil subdued the minds of many to obey him, and follow him wheresoever he was pleased to command or lead them. And he made that woman walk bare-foot through the snow in the depth of winter, and feel no trouble or harm by running about after this fashion. But at last, after having played many such pranks, one of the exorcists of the Church, discovered her to be a cheat, and shewed that it was a wicked spirit, which before was thought to be the Holy Ghost." There are many other such instances in the history of the Montanists^t and Pepuzians, and the Apellians and Severians,^u mentioned by St. Austin and other writers:

nequam præsciens et intelligens terræ motum futurum, id se facturum esse simularet, quod futurum videret. Quibus mendaciis et jactationibus subegerat mentem singulorum, ut sibi obedirent, et quocumque præciperet et duceret, sequerentur: faceret quoque mulierem illam cruda hieme nudis pedibus per asperas nives ire, nec vexari in aliquo aut lædi in illa discursione: diceret etiam se in Judæam et Hierosolimam festinare, fingens tamquam inde venisset. Hic et unum de presbyteris rusticum, item et alium diaconum fefellit, ut eidem mulieri commiscerentur, quod paullo post detectum est. Nam subito apparuit illi unus de exorcistis, vir probatus et circa religiosam disciplinam bene semper conversatus, qui exhortatione quoque fratrum plurimorum, qui et ipsi fortes ac laudabiles in fide aderant, excitatus, erexit se contra illum spiritum nequam revincendum, qui subtili fallacia etiam hoc paullo ante prædixerat, venturum quemdam aversum et tentatorem infidelem. Tamen ille exorcista inspiratus Dei gratia fortiter restitit, et esse illum nequissimum spiritum, qui prius sanctus putabatur, ostendit.

^t Augustin. de Hæres. c. xxvi. Adventum Spiritus-sancti a Domino promissum, in se potius quam in apostolis ejus fuisse adserunt redditum. Secundas nuptias pro fornicationibus habent: and ideo dicunt eas permisisse apostolum Paulum, quia ex parte sciebat et ex parte prophetabat: nondum enim venerat, quod perfectum est. Hoc autem perfectum in Montanum et in ejus prophetissas venisse delirant. (Antverp. 1700. vol. viii. p. 8. A.)—Euseb. lib. v. c. xiii. (Vales. p. 143. D.) 'Απὸ τῆς τούτων ἀγίλης Ἀπελλῆς μὲν ὁ τῇ πολιτείᾳ σεμνυνόμενος καὶ τῷ γήρᾳ, μίαν ἀρχὴν ὁμολογεῖ· τὰς δὲ προφητείας ἐξ ἀντικειμένων λέγει πνεύματος· πειθόμενος ἀποφθέγμασι παρθένου δαιμονώσης ὄνομα Φίλου-μένης.

^u Augustin. ibid. cap. xxiii. Apellitæ sunt, quorum Apelles est princeps. . . .

but these are sufficient to shew what pretences were commonly made by heretics to the power of working miracles, which the Church, apprehending them to be wrought by the power of Satan, and not by the Holy Spirit, rejected as impostures, and punished the pretenders with the severest of her censures. For so Eusebius,* out of Apollinaris, particularly tells us of the Montanists, that their new prophecies being judged impious and profane, their doctrine was condemned, and the authors expelled from the communion of the Church, as enthusiasts and demoniacs, who were always excluded from the participation of the holy mysteries, while they remained under the power and agitation of Satan. St. Basil† appoints the same penance for those who profess conjuration, *γοητείαν*, as for those who are guilty of murder, that is, twenty years in several stations of repentance.

SECT. VIII.—*Of Observation of Days and Accidents, and making Presages and Omens upon them.*

There was one piece of superstition more, which the ancients frequently censure as a breach of men's baptismal vow, and part of the pomp and service of Satan, which they professed to renounce in baptism. This was, the observation of

Hunc Apellem dicunt quidam etiam de Christo tam falsa sensisse, ut diceret eum, non quidem carnem deposuisse de cœlo, sed ex elementis mundi accepisse, quam mundo reddidit, quum sine carne resurgens adscendit in cœlum.—Ibid. c. xxiv. Severiani a Severo exorti. . . [Hic præterea Philumenen quandam puellam dicebat inspiratam divinitus ad prænuntianda futura ; ad quam somnia atque æstus sui animi referens, divinationibus seu præsagiis ejus secretim erat solitus præmoneri, eodem phantasmate eidem Philumenæ pueri habitu se demonstrante, qui puer apparens Christum se aliquando, aliquando esse adsereret Paulum. A quo phantasmate sciscitans, ea soleret respondere, quæ se audientibus diceret. Nonnulla quoque illam miracula operari solitam, inter quæ illud præcipuum, quod in angustissimi oris ampullam vitream panem grandem immitteret, eumque extremis digitulis levare soleret illæsum, eoque solo quasi divinitus sibi cibo dato fuisset contenta.] Vide sis Euseb. lib. v. c. xiv. et xvi. tot.

* Euseb. lib. v. c. xvi. p. 147, edit. Amstelod. 1695. (Vales. p. 174. A.) Τῶν κατὰ τὴν Ἀσίαν πιστῶν πολλὰκις καὶ πολλὰχὺ τῆς Ἀσίας εἰς τοῦτο συνελθόντων, καὶ τοὺς προσφάτους λόγους ἐξετασάντων καὶ βεβήλους ἀποφηνάντων καὶ ἀποδοκimasάντων τὴν αἵρεσιν, οὕτω δὲ τῆς τε ἐκκλησίας ἐξεώθησαν, καὶ τῆς κοινωνίας εἰρχθησαν.

† Basil. can. lxx. Ὁ γοητείαν ἢ φαρμακείαν ἐξαγορεύων, τὸν τοῦ φονίως χρόνον ἐξομολογῆσεται. (Labbé, vol. ii. p. 1749.)

days and accidents, as lucky or unlucky, and making presages and omens upon them. St. Chrysostom * has a large invective against this sort of superstition. "The pomps of Satan," says he, "are the theatre and the games of the cirque, together with the observation of days, and presages and omens. And what are omens? Why, suppose when a man goes first out of his doors, he meets a man that has but one eye, or is lame; he reckons this ominous, or foreboding some ill fortune to him. This is part of the pomps of Satan. For the meeting of a man does not make the day evil, but the spending of it in sin. Keep from sin, and the devil himself cannot hurt you; but if you make presages upon meeting of a man, you discern not the devil's snare, who makes you without reason an enemy to one who has done you no harm. But there is one thing

* Chrysost. Hom. xxi. ad popul. Antiochen. (Paris. 1609. p. 274.) (p. 244, 245, edit. Francof.) Πομπή δὲ Σατανική ἐστὶ θέατρα, καὶ ἱπποδρομιαί, καὶ πᾶσα ἁμαρτία, καὶ παρατήρησις ἡμερῶν, καὶ κληδόνες, καὶ σύμβολα· καὶ τί ποτὲ ἐστὶ σύμβολα φησι; πολλάκις ἐξελθὼν τις τὴν οἰκίαν τὴν ἑαυτοῦ, εἶδεν ἄνθρωπον ἐτερόφθαλμον, ἢ χωλεύοντα, καὶ οἰωνίσαστο· τοῦτο πομπή Σατανική· οὐ γὰρ ἡ ἀπάντησις τοῦ ἀνθρώπου πονηρὰν ποιεῖ τὴν ἡμέραν γενέσθαι, ἀλλὰ τὸ ἐν ἁμαρτίαις ζῆν· ὅταν τοίνυν ἐξέλθῃς, ἐν μόνον φύλαξαι, μὴ ἁμαρτία σοι ἀπαντήσῃ· αὕτη γάρ ἐστὶν ἡ ἡμᾶς ὑποσκελίζουσα, χωρὶς δὲ ταύτης οὐδὲ ὁ διάβολος ἡμᾶς βλάψαι δυνήσεται· τί λέγεις; ἄνθρωπον ὄρα, καὶ οἰωνίζῃ, καὶ οὐχ ὄρα τὴν πάγην διαβολικὴν, πῶς ἐκπολεμοῖ σε τῷ μηδὲν ἡδικοῦντι; πῶς ἐχθρόν σε καθίστησι τῷ ἀδελφῷ ἐξ οὐδεμιᾶς δικαίας προφάσεως; καὶ ὁ μὲν Θεὸς καὶ τοὺς ἐχθροὺς φιλεῖν ἐκέλευσε, σὺ δὲ καὶ τὸν οὐδὲν ἡδικοῦντα ἀποστρέφῃ, μηδὲν ἔχων ἐγκαλεῖν, καὶ οὐκ ἔννοεῖς, πόσους ὁ γέλως, πόση αἰσχύνῃ, μᾶλλον δὲ πόσους ὁ κίνδυνος; εἰπω καὶ ἔτερον καταγελαστότερον; αἰσχύνομαι μὲν καὶ ἐρυθρόμαι, ἀναγκάζομαι δὲ ὅμως διὰ τὴν ὑμετέραν σωτηρίαν εἰπεῖν· ἐὰν ἀπαντήσῃ παρθένος, φησὶν, ἀπρακτος ἡ ἡμέρα γίνεται· ἐὰν δὲ ἀπαντήσῃ πόρνη, δεξιὰ, καὶ χρηστή, καὶ πολλῆς ἐμπορίας γέμουσα.. "Ὅρα γοῦν καὶ ἐνταῦθα, πῶς τὸν δόλον ἐκρυψεν ὁ διάβολος, ἵνα τὴν μὲν σὺφρονα ἀποστερφώμεθα, τὴν δὲ ἀκόλαστον ἀσπαζώμεθα καὶ φιλῶμεν... Τί ἂν τις εἰποῖ περὶ τῶν ἐπ' ὠδαῖς καὶ περιάπτους κεχηρμένων, καὶ νομίσματα χαλκᾶ Ἀλεξάνδρου τοῦ Μακεδόνος τὰς κεφαλὰς καὶ τοὺς ποσὶ περιδεδυμένων; αὐταὶ αἱ ἐλπίδες ἡμῶν; εἰπέ μοι. See lib. xi. c. vii. § xiii. litt. (r) vol. iii. p. 54. and Homil. xxiii. de noviluniis, cit. supra cap. iv. § xvii. sub litt. (r) p. 35. — Chrysost. Commentar. in Galat. i. (p. 789, edit. Francof.) Ἐὰν γὰρ Ἑλλήνων ἦθῃ πολλὰ παρὰ τισι τῶν ἡμετέρων φυλάττεται, κληδονισμοί, καὶ οἰωνισμοί, καὶ σύμβολα, καὶ ἡμερῶν παρατηρήσεις, καὶ ἡ περὶ τὴν γένεσιν σπουδή, καὶ τὰ πάσης ἀσεβείας γέμοντα γραμματεῖα, ἃ τιχομένων τῶν παιδίων εὐθὺς ἐπὶ κακῷ τῆς ἑαυτῶν συντιθείας κεφαλῇς, ἐκ προοιμίων παιδεύοντες καταλύνει τοὺς ὑπὲρ ἀρετῆς πόνους, καὶ ὑπὸ τὴν πεπλανημένην τυραννίδα τῆς εἰμαρμένης τόγῃ αὐτῶν ἄγοντες μέρος. (Paris. 1636. p. 973, at top.)

more ridiculous than this, which I am ashamed to speak, and yet I must mention for your salvation. If a man meets a virgin, he cries out presently, This will be a fruitless day with me : but if he meets an harlot, it will be a good and lucky day, and bring him in great gain and advantage. See how the devil here hides his craft, to make us abhor a chaste and modest woman, and love an impudent harlot. But what shall a man say of those who use enchantments and ligatures, binding the brasen medals of Alexander the Great about their heads or feet? Are these, I pray, the hopes of a Christian, that, after the cross and death of our Lord, we should place our hopes of salvation or health in the image of an heathen king? Know you not what great things the cross has done? How it has destroyed death, abolished sin, taken away the force of hell and the grave, and dissolved the power of death? And canst thou not trust it for curing thy bodily distempers? It has raised the whole world from the dead; and canst not thou confide in it? But thou dost not only seek after such ligatures, but enchantments, entertaining old drunken and staggering women in thy house for this purpose. And the apology you make for so doing, is worse than the error itself. The woman, say you, who makes the charm, is a Christian, and she does nothing but make use of the name of God.—For that very reason I the more detest and abhor her, because she uses the name of God to dishonour and reproach it; because she is called a Christian, and does the works of an heathen. The devils confessed the name of God, yet they were devils for all that; they said to Christ, ‘We know thee who thou art, the holy one of God,’ yet notwithstanding he rebuked them and cast them out. Wherefore I beseech you, keep yourselves pure from this deceit, and let this word, ‘I renounce thee, Satan,’ be your staff. As you would not go into the market without your shoes and clothes, so never go forth of your doors without first using this word, I renounce thee, Satan, and thy pomp and service, and I make a covenant with thee, O Christ. Go nowhere without this word; and it will be your staff, your armour, your impregnable tower. Join with this word the sign of the cross in your forehead: and so not only the meeting of any man, but the devil himself cannot

hurt you." St. Austin gives a like caution against this sort of superstitious observations. "To this kind,"^a says he, "belong all ligatures and remedies, which the school of physicians reject and condemn, whether in enchantments, or in certain marks, which they call characters, or in other things that are to be hanged and bound about the body, and kept in a dancing posture, not for any temperament of the body, but for certain significations either occult or manifest: which by a gentler name they call physical, that they may not seem to affright men with the appearance of superstition, but do good in a natural way: such are ear-rings hanged upon the tip of each ear, and rings made of an ostrich's bones for the fingers, or when you are told in a fit of the convulsions or shortness of breath, to hold your left thumb with your right hand. To which may be added a thousand vain observations, as if any of our members beat: if when two friends are walking together, a stone, or a dog, or a child, happens to come between them: they tread the stone to pieces, as the divider of their friend-

^a Augustin. de Doctrin. Christ. lib. ii. c. xx. (tom. iii. Opp. p. 32, 33, edit. Basil. 1569.) (Antverp. 1700. vol. iii. pt. i. p. 24. D.) Ad hoc genus pertinent etiam omnes ligaturæ, atque remedia, quæ medicorum quoque disciplina condemnat, sive in præcantationibus, sive in quibusdam notis, quas characteres vocant; sive in quibusque rebus suspendendis atque illigandis, vel etiam aptandis quodammodo, non ad temperationem corporum, sed ad quasdam significationes aut occultas aut etiam manifestas: quæ mitiore nomine physica vocant, ut non quasi superstitione implicare, sed natura prodesse videantur: sicut sunt inaures in summo aurium singularum, aut de struthionum ossibus ansule in digitis, aut quum tibi dicitur singultienti, ut dextera manu sinistrum pollicem teneas. His adjunguntur millia inanissimarum observationum, si membrum aliquod salierit, si junctim ambulantis amicus, lapis aut canis, aut puer medius intervenerit: atque illud quod lapidem calcant, tamquam directorem amicitie, minus molestum est, quam quod innocentem puerum colapho percutiunt, si pariter ambulantis intercurrit. Sed bellum est, quod aliquando pueri vindicantur a canibus: nam plerumque tam superstitiosi sunt quidam, ut etiam canem, qui medius intervenerit, ferire audeant, non impune: namque a vano remedio cito interdum ille percussorem suum ad verum medicum mittit. Hinc sunt etiam illa: limen calcare, quum ante domum suam transit: redire ad lectum, si quis, dum se calciat, sternutaverit: redire domum, si procedens offenderit: quum vestis a soricibus roditur, plus tremere suspitione futuri mali, quam præsens damnum dolere. Unde illud eleganter dictum est Catonis, qui quum esset consultus a quodam, qui sibi a soricibus corrosas caligas diceret, respondit non esse illud monstrum, sed vere monstrum habendum fuisse, si sorices a caligis roderentur.

ship, and this is tolerable in comparison of beating an innocent child that comes between them. But it is more pleasant, that sometimes the children's quarrel is revenged by the dogs ; for many times they are so superstitious as to dare to beat the dog that comes between them, who turning again upon him that smites him, sends him from seeking a vain remedy to seek a real physician indeed. Hence proceed likewise those other superstitions : for a man to tread upon his threshold when he passes by his own house ; to return back to bed again, if he chance to sneeze whilst he is putting on his shoes ; to return into his house, if he stumble at his going out ; if the rats gnaw his clothes, to be more terrified with the suspicion of some future evil than concerned for his present loss. He says, Cato gave a wise and smart answer to such an one, who came in some consternation to consult him about the rats having gnawed his stockings : That, said he, is no great wonder ; but it would have been a wonder indeed if the stockings had gnawed the rats." St. Austin mentions this witty answer of a wise heathen, to convince Christians the better of the unreasonableness and vanity of all such superstitious observations. And he concludes,^b that "all such arts,

^b Ibid. c. xxiii. (1700. iii. p. 26.) Omnes igitur artes hujusmodi vel nugatorie vel noxiæ superstitionis, ex quadam pestifera societate hominum et dæmonum, quasi pacta quædam infidelis et dolosæ amicitie constituta, penitus sunt repudianda et fugienda Christiano : 'non quod idolum sit aliquid,' ut ait apostolus, 'sed quia quæ immolant, dæmoniis immolant, et non Deo : nolo autem vos socios fieri dæmoniorum.' Quod autem de idolis, et de immolationibus, quæ honori eorum exhibentur, dixit apostolus, hoc de omnibus imaginariis signis sentiendum est, quæ vel ad cultum idolorum, vel ad creaturam ejusque partes tamquam Deum colendas trahunt, vel ad remediorum aliarumque observationum curam pertinent : quæ non sunt divinitus ad dilectionem Dei et proximi tamquam publicæ constituta, sed per privatas appetitiones rerum temporalium, corda dissipant miserorum. In omnibus ergo istis doctrinis societas dæmonum formidanda atque vitanda est, qui nihil cum principe suo diabolo nisi reditum nostrum claudere atque obserare conantur. Sicut autem de stellis, quas condidit et ordinavit Deus, humanæ et deceptorie conjecturæ ab hominibus institutæ sunt ; sic etiam de quibusque nascentibus, vel quomodo divinæ providentiæ administratione existentibus rebus, multi multa humanis suspicionibus, quasi regulariter conjectata, litteris mandaverunt, si forte insolite acciderint, tanquam si mula pariat, aut fulmine aliquid percutiatur. (37.) Quæ omnia tantum valent, quantum presumptione animorum quasi communi quadam lingua cum dæmonibus foederata sunt. Quæ tamen omnia plena sunt pestiferæ curiositatis, cruciantis sollicitudinis, mortiferæ servitutis. Non enim quia valebant, animadversa

whether of trifling or more noxious superstition, are to be rejected and avoided by Christians, as proceeding originally from some pernicious society between men and devils, and being the compacts and agreement of such a treacherous and deceitful friendship. The Apostle forbids us 'to have fellowship with devils:' and that, he says, respects not only idols and things offered to idols, but all imaginary signs pertaining to the worship of idols, and also all remedies and other observations, which are not appointed publicly by God to promote the love of God and our neighbour, but proceed from the private fancies of men, and tend to corrupt the hearts of poor deluded mortals. For these things have no natural virtue in them, but owe all their efficacy to a presumptuous confederacy with devils: and they are full of pestiferous curiosity, tormenting anxiety, and deadly slavery. They were first taken up, not for any real power to be discerned in them, but gained their power by men's observing them. And therefore by the devil's art they happen differently to different men according to their own apprehensions and presumptions. For the great deceiver knows how to procure things agreeable to every man's temper, and ensnare him by his own suspicions and consent." As this is an excellent account of these superstitious observations, so it seems to intimate, that some difference was made between the professors of these arts, and those who through ignorance were deluded by them: and therefore though the former might fall under the severest discipline of the Church, yet the latter seem rather to have been chastised by admonitions and rebukes, as here by St. Austin and St. Chrysostom, and not to have incurred the highest censure of excommunication, because of their simplicity, and perhaps because of the numbers of those who were daily inclined to mind such observations of days and accidents, without considering either the original of the superstition, or the mischief thereby done to piety and religion. I

sunt; sed animadvertendo atque signando factum est, ut valerent. Et ideo diversis diverse proveniunt, secundum cogitationes et præsuntiones suas. Illi enim spiritus, qui decipere volunt, talia procurant cuique, qualibus eum irretitum per suspiciones et consensiones ejus viderint. Vide plura ap. Gratian. causs. xxvi. quæst. vii. c. xv. xvi. Non observetis dies, qui dicuntur Ægyptiaci, &c.

have insisted a little longer upon these things, because it is to be feared, there is always reason for a serious caution against such superstitions, which are apt to creep upon unwary men in all ages of the Church.

CHAPTER VI.

OF APOSTASY INTO JUDAISM AND PAGANISM, OF HERESY
AND SCHISM, SACRILEGE AND SIMONY.

SECT. I.—*Of such as apostatized totally from Christianity to Judaism.*

BESIDES the fore-mentioned crimes against the first and second commandments, there were a great many others worth our observance, as bringing men under the severest censures of the Church. Among these the disposition which many shewed toward the antiquated religion and ceremonies of the Jews, is often taken notice of by the ancients in their accounts of Church-discipline. And of these we may observe three sorts or degrees. Some entirely abandoned the Christian religion, and went totally over to the Jews; others mingled the Jewish ceremonies and some of their doctrines with the Christian religion; and others complied so far with them as to communicate with them in many of their unlawful practices, though they made no formal profession of their religion. Of the first sort was Aquila the translator of the Bible, who at first was a Christian, as Epiphanius^a informs us, till being ex-

^a Epiphan. de Pond. et Mensur. n. xv. tom. ii. p. 171. B 3. 'Ο Ἀκύλας κατα-
νυγείς τὴν διάνοιαν τῷ Χριστιανισμῷ ἐπίστευσεν· αἰτήσας δὲ μετὰ χρόνον τὴν
ἐν Χριστῷ σφραγίδα, ἐκομίσατο· ἀπὸ δὲ τῆς πρώτης αὐτοῦ ἔξεως μὴ μεταθί-
μενος, τοῦ πιστεύειν δηλονότι τῇ ματαίᾳ ἀστρονομίᾳ, ἣν ἀκριβῶς ἐκεπεπαίδευτο·
ἀλλὰ καθ' ἑκάστην ἡμέραν τὸ θέμα τῆς αὐτοῦ γενέσεως σκεπτόμενος, ἐλεγχό-
μενός τε ὑπὸ τῶν διδασκάλων, καὶ ἐπιτιμώμενος ἕνεκα τούτου, μὴ διορθούμενος
δὲ, ἀλλὰ καὶ φιλονείκως μᾶλλον ἀντιτιθέμενος, καὶ σπεύδων συνιστᾶν τὰ ἀσύ-
στατα, τὴν εἰμαρμένην δηλονότι, καὶ τὰ περὶ αὐτῆς διηγήματα, ἐξέωθη πάλιν
τῆς ἐκκλησίας, ὡς ἄχρηστος πρὸς σωτηρίαν· πικρανθεὶς δὲ τὴν διάνοιαν ὡς
ἡτιμωμένος, εἰς ζῆλον μάταιον αἵρεται, καὶ τὸν Χριστιανισμὸν ἀρνησάμενος,
καὶ τὴν αὐτοῦ ζωὴν, προσηλυτεύει καὶ περιτίμνεται Ἰουδαῖος, καὶ ἐπιπόνως
φιλοτιμησάμενος ἐξέδωκεν ἑαυτὸν μαθεῖν τὴν Ἑβραίων διδλεκτον, καὶ τὰ αὐτῶν

pelled from the Church for adhering to astrology, he fled over to the Jews and took sanctuary among them, setting about a new translation of the Bible in spite to the Christians. And such were many in the days of Barchochab the great impostor, who compelled many Christians to deny and curse Christ, as Justin Martyr^b acquaints us. Now though the imperial laws allowed those that were originally Jews, the freedom of their religion, and many privileges for a long time under the reigns of Christian emperors, yet they severely prohibited any Christian going over to them, and laid very great penalties upon all such apostates. Constantine^c left it to the discretion of the judges to punish such apostates with death, or any other condign punishment. His son Constantius^d subjected them to confiscation of goods. And Valentinian junior^e laid upon them the penalty of being intestate, denying them and all other apostates the privilege of disposing of their estates by will. And in compliance with these laws of the state, the Church after she had anathematized such apostates, shewed her detestation of them farther in denying them the privilege of being accepted as credible witnesses in any of her courts of judicature. "For he cannot be faithful to man," says the fourth Council of Toledo,^f

στοιχεῖα ταύτην δὲ ἀκρότατα παιδεύθεις, ἡρμήνευσεν, οὐκ ὀρθῶ λογισμῷ χρησάμενος, ἀλλ' ὅπως διαστρέψῃ τινὰ τῶν ῥητῶν, ἐνσκήψας τὴν τῶν ἐβδομήκοντα δύο ἐρμηνείαν· ἵνα τὰ περὶ Χριστοῦ ἐν ταῖς γραφαῖς μεμαρτυρημένα ἄλλως ἐκδώσει, δι' ἣν εἶπεν αἰδῶ, εἰς ἄλογον αὐτοῦ ἀπολογίαν.

^b Justin. Apolog. i. p. 72. *Καὶ γὰρ ἐν τῷ νῦν γεγεννημένῳ Ἰουδαϊκῷ πολέμῳ, Βαρχωχίβας, ὁ τῆς Ἰουδαίων ἀποστάσεως ἀρχηγέτης, Χριστιανοὺς μόνους εἰς τιμωρίας δεινὰς, εἰ μὴ ἀρνοῖντο Ἰησοῦν τὸν Χριστόν, καὶ βλασφημοῖεν, ἐκέλευεν ἀπάγεσθαι.* (Ashton, p. 62.)

^c Cod. Theodos. lib. xvi. tit. viii. de Judæis leg. i. Si quis ex populo ad eorum nefariam sectam accesserit, et conciliabulis eorum se applicaverit, cum ipsis poenas meritas sustinebit. (Lugd. 1665. vol. vi. p. 214.)

^d Ibid. leg. vii. Si quis ex Christiano Judæus effectus . . . facultates ejus dominio fisci jussimus vindicari. (vi. p. 223.)

^e Cod. Theod. lib. xvi. tit. vii. de Apostatis leg. iii. Christianorum ad aras et templa migrantium, negata testandi licentia, vindicamus admissum. Eorum quoque flagitia puniantur, qui Christianæ religionis et nominis dignitate neglecta, Judaicis semet polluere contagiis. (vi. p. 204.)

^f Concil. Toletan. IV. c. lxiv. (Labbe, v. p. 1720.) Non potest erga homines esse fidelis, qui Deo exstiterit infidelis. Judæi ergo, qui dudum Christiani effecti sunt, et nunc in Christi fidem prævaricati sunt, ad testimonium dicendum admitti non debent, quamvis esse se Christianos adnuntient. Quia, sicut in fide Christi suspecti sunt, ita et in testimonio humano dubii habentur. Infirmari ergo

who has been unfaithful to God. Therefore those Jews, who were heretofore Christians, and now prevaricate from the faith of Christ, ought not to be admitted to give testimony, although they call themselves Christians: because as they are suspected in the faith of Christ, so their credit ought to be questioned in human testimony. Therefore their evidence is of no force, seeing they have falsified in the faith; neither is any credit to be given to them, who have cast off the word of truth."

SECT. II.—*Of such as mingled the Jewish Religion and the Christian together.*

Another sort there were, who did not wholly cast off the Christian religion, but made up a new religion for themselves by a mixture of both together. Such a miscellany, was the heresy of the Nazarenes, and those of the Ebionites, and Cerinthians, and Elcesaites, and Sampseans, who observed circumcision, and other rituals of the Jewish law, together with so much as they retained of the Christian; as may be seen in the accounts which St. Austin^s and other ancient writers give of them. And Gothofred thinks the Cœlicolæ, who are specified and condemned in two or three laws of Honorius in the Theodosian code, were a mongrel sect of the same nature. They joined circumcision and baptism together; agreeing both with Jews and Christians in rejecting idols, and worshipping only heaven, that is, the God of heaven, whence they had the title of Cœlicolæ; but in this they agreed with the Jews only, that they rejected the doctrine of a Trinity in the Godhead, and only worshipped God in one person. In which respect the Sabellians

oportet eorum testimonium, qui in fide falsi docentur, nec eis esse credendum, qui veritatis a se fidem abjecerunt.

^s August. de Hæres. c. viii. Cerinthiani a Cerintho, iidemque Merinthiani a Merintho, mundum ab angelis factum esse dicentes, et carne circumcidi oportere, atque alia hujusmodi Legis præcepta servari. Cap. ix. Nazaræi, quum Dei filium confiteantur esse Christum, omnia tamen veteris Legis observant, quæ Christiani per apostolicam traditionem non observare carnaliter, sed spiritaliter intelligere didicerunt. Cap. x. Ebionæi Christum etiam tantummodo hominem dicunt. Mandata carnalia Legis observant, circumcisionem scilicet carnis, et cetera, a quorum oneribus per novum Testamentum liberati sumus. Huic hæresi Epiphanius Sampseos et Elcesæos ita copulat, ut sub eodem numero, tamquam una sit hæresis, ponat. Cap. xxxii. Elcesæos et Sampseos heic tamquam ordine suo commemorat Epiphanius . . . dicit Ebionæis tenere similia. (Antverp. 1700, vol. viii. p. 6, &c.)

also, and Paulianists, and Praxeans, and Theodotians, and Arians, and Photidians, who either denied the divinity of Christ, or confounded the three divine persons into one, are commonly charged by the ancients as flying back to Judaism in this point, whilst they subverted the true doctrine of the Christian Trinity by their heterodox innovations. It is particularly remarked by learned men^h concerning Paulus Samosatenus, that the true reason why he denied the divinity of Christ, was to compliment queen Zenobia, who was a Jewish proselyte: for he thought, that by reducing Christ to be a mere man, he might reconcile both religions, and take away the partition-wall that divided the Jews and Christians; nothing being so great an offence to the Jews, as that Christ was owned by his disciples to be God. There was another sect which called themselves Hypeistarians, that is, worshippers of the most High God, whom they worshipped, as the Jews, only in one person: and they observed their sabbaths, and used distinction of meats, clean and unclean, though they did not regard circumcision; as Gregory Nazianzen,ⁱ whose father was once one of this sect, gives the account of them. Now it is certain, the Church never allowed any of these miscellaneous doctrines, or mongrel sects; but condemned them all as heretics, and excluded them

^h Maurice's Answer to Baxter's Church Histor. p. 287.—Baron. ad an. cclxv. n. ii. Erat Odenato conjux, insignis pudicitiae atque prudentiae in rebus agendis femina. Hanc fuisse Judaeam, sanctus Athanasius testari videtur, quum ait in Arianos: 'Zenobia Judaea erat, et protectrix Pauli Samosateni; et tamen Judaeis in synagogas ecclesias non tradidit.' Haec quippe scientiis erudita, usa est in Graecis litteris Longino praepatore; quod tradit Vopiscus: quem et Porphyrius laudibus celebrat. Sed et cupida Christianarum litterarum, male consulta adscivit sibi magistrum Paulum Samosatenum, episcopum Antiochenum, haereticum, de Christo abjecte nimis et humiliter sentientem, ac penitus Judaizantem, de quo Philastrius: 'Hic verbum Dei, id est, Christum Deum, Dei filium substantivum ad personalem et sempiternum esse cum Patre denegabat: prolativum autem, id est, quasi aërem quemdam dicebat, non tamen personam vivam Filii sempiternam cum sempiterno Patre credendam esse docebat. Hic Christum hominem justum, non Deum verum praedicabat, Judaizans potius, qui et circumcisionem docebat: unde et Zenobiam quamdam reginam in Oriente tunc temporis ipse docuit Judaizare.' (Antwerp. 1697. ii. p. 607.)

ⁱ Nazianz. orat. xix. in funere patris. Τῆς μὲν γὰρ τὰ εἰδωλα, καὶ τὰς θυσίας ἀποπεμπόμενοι, τιμῶσι τὸ πῦρ καὶ τὰ λύχνια· τῆς δὲ τὸ σάββατον αἰδοῦμενοι, καὶ τὴν περὶ τὰ πρόβατα ἐς τινα μικρολογίαν τὴν περιτομὴν ἀτιμάζουσιν. Ὑψιστάριοι τοῖς ταπεινοῖς ὄνομα, καὶ ὁ παντοκράτωρ δὴ μόνος αὐτοῖς σεβάσμιος. (Colon. 1690. vol. i. p. 289.)

from her communion. And the laws of the state were particularly severe against the *Cœlicolæ*, those who joined circumcision and baptism together, there being three laws of Honorius in the Theodosian code directly formed against them. In the first of which he ranks them with the Donatists, and Manichees, and Priscillianists, and heathens; ordering all general penal laws against heretics to be put in execution against them; and particularly appointing, that the houses of the *Cœlicolæ*, where that new sect held their conventicles, should with the rest^k be forfeited to the Church. In the second, he calls them^l the new audacious sect of the Jews, which presumed to disturb the sacraments of the Church, because they rebaptized the Catholics as the Donatists did. In the third,^m he styles them again, the new sect of the *Cœlicolæ*, who brought in an unheard superstition. And he threatens them, that unless within a year they returned to the service of God and the Christian worship, all the laws made against heretics should lay hold of them. St. Austin also in one of his epistlesⁿ mentions this sect of the *Cœlicolæ*; and intimates, that they joined with the Donatists in rebaptizing the Catholics. And that he means a sect which apostatized from the Christian to the Jewish religion, is evident from the title of 'Majores,' given by him to their ministers. For by this title the Jewish ministers are frequently^o distinguished in the Theodosian code. So that it

^k Cod. Theodos. lib. xvi. tit. v. de Hæretic. leg. xliii. Omnia, quæ in Donatistas, Manichæos, sive Priscillianistas, vel in gentiles, a nobis generalium legum auctoritate decreta sunt, non solum manere decernimus, verum in executionem plenissimam effectumque deduci: ita ut ædificia quoque, vel horum, vel *Cœlicolarum* etiam (quæ nescio ejus dogmatis novi conventus habent) ecclesiis vindicentur. (Lugdun. 1665. vol. vi. p. 164.)

^l Ibid. leg. xlv. Donatistarum hæreticorum, et Judæorum nova atque inusitata detexit audacia, quod catholice fidei velint sacramenta turbare.

^m Lib. xvi. tit. viii. de Judæis, *Cœlicolis*, et Samaritanis leg. xix. *Cœlicolarum* nomen inauditum quodammodo novum crimen superstitionis vindicavit. Hi nisi infra anni terminos ad Dei cultum venerationemque Christianam conversi fuerint, his legibus, quibus præcepimus hæreticos adstringi, se quoque noverint adtinendos. (vol. vi. p. 234.)

ⁿ Augustin. Epist. clxiii. ad Eleusium p. 284. Jam miseramus ad Majorem *Cœlicolarum*, quem audieramus novi apud eos baptismi institutorem exstitisse, et multis illo sacrilegio seduxisse. (Antwerp. 1700. vol. ii. p. 80. F.)

^o Cod. Theod. lib. xvi. tit. viii. de Judæis, *Cœlicolis*, et Samaritanis leg. i. Judæis et Majoribus eorum et patriarchis volumus intimari, &c. It. leg. xxiii.

is plain, that this sect of the Coelicolæ was a mixture of the Christian and Jewish religion together, and as such were both punished by the laws of the state, and rejected from communion by the laws of the Church.

SECT. III.—*Of such as communicated with the Jews in their unlawful Rites and Practices.*

Besides these, there were some Christians, who neither went over wholly to the Jews' religion, nor in any main point complied with them, who yet in some more remote rites and practices refused not to communicate with them, as in observing their festivals, and feasting, and marrying with them, and receiving their eulogiæ, and having recourse to them for phylacteries and charms to cure diseases; all which therefore are condemned under the penalty of ecclesiastical censure. The Council of Laodicea forbids^p Christians to Judaize by resting on the sabbath, under pain of anathema: likewise it prohibits keeping Jewish feasts, and accepting^q festival-presents sent from them: as also receiving unleavened bread from them, which is accounted a partaking with them in their impiety. To the same purpose, among the Apostolical Canons we find one forbidding to fast^r or feast with the Jews, or to receive any of their festival-presents, or unleavened bread, under the penalty of deposition to a clergyman, and excommunication to a layman. And by another of the same canons,^s to carry oil to a Jewish synagogue, or set up lights on their festivals, is paralleled with the crime of doing the like for an

Annati didascaleo et Majoribus Judæorum. (p. 240.) It. lib. xvi. tit. ix. leg. iii. ubi eadem habetur inscriptio. (p. 248.)

^p Concil. Laodic. can. xxix. "Ὅτι οὐ δεῖ Χριστιανοὺς Ἰουδαΐζειν, καὶ ἐν τῷ σαββάτῳ σχολάζειν, ἀλλὰ ἐργάζεσθαι αὐτοὺς ἐν τῇ αὐτῇ ἡμέρᾳ· τὴν δὲ κυριακὴν προτιμῶντες, εἰγε δύναιντο, σχολάζειν ὡς Χριστιανοί. Εἰ δὲ εὐρεθεῖεν Ἰουδαῖσται, ἔστωσαν ἀνάθεμα παρὰ Χριστοῦ. (Labbé, i. p. 1501.)

^q Ibid. can. xxxvii. "Ὅτι οὐ δεῖ παρὰ τῶν Ἰουδαίων ἢ αἰρετικῶν τὰ πεμπόμενα ἑορταστικά λαμβάνειν, μηδὲ συνεορτάζειν αὐτοῖς. Can. xxxviii. "Ὅτι οὐ δεῖ παρὰ τῶν Ἰουδαίων ἄζυμα λαμβάνειν, ἢ κοινωνεῖν ταῖς ἀσεβείαις αὐτῶν.

^r Can. Apost. lxix. Εἴ τις ἐπίσκοπος, ἢ ἄλλος κληρικὸς νηστεοῖ μετὰ τῶν Ἰουδαίων, ἢ ἐορτάζοι μετ' αὐτῶν, ἢ δέχοιτο παρ' αὐτῶν τὰ τῆς ἑορτῆς ξένια, οἶον ἄζυμα, ἢ τι τοιοῦτον, καθαιρεῖσθω· εἰ δὲ λαϊκός, ἀφοριζέσθω. (Labbé, i. p. 40.)

^s Apost. Can. lxx. Εἴ τις Χριστιανὸς ἔλαιον ἀπενέγκῃ εἰς ἱερὸν-δὲν-ἢ ἐθνῶν, ἢ εἰς συναγωγὴν Ἰουδαίων ἐν ταῖς ἑορταῖς αὐτῶν, ἢ λύχνους ἄπτει [ἄψῃ], ἀφοριζέσθω. (p. 41.)

heathen temple or festival; and both of them equally punished with excommunication. So a bishop, priest, or deacon, who celebrates the Easter festival before the vernal equinox^t with the Jews, is to be deposed. Though this is a little more severe than the constitution that was made about it in the time of Irenæus, and afterward was confirmed by Constantine^u and the Council of Nice: for they forbid the celebration of Easter with the Jews, but lay not the penalty of deposition or excommunication upon those that followed that custom, because they had some pretence of apostolical tradition for their practice. The Council of Eliberis^x forbids Christians to have recourse to the Jews for blessing the fruits of the earth, and that under the penalty of excommunication; because it was a reproach to the manner of blessing them in the Church, as if that was weak and ineffectual. The same council^y forbids both clergy and laity to eat with the Jews, upon pain of being cast out of the communion of the Church. And the reason of this is assigned by the Council of Agde;^a “because they use not the meats that are commonly used among Christians: therefore it is an unworthy and sacrilegious thing to eat with them: for as much as they reputed those things unclean, which the Apostle allows us to receive; and so Christians are rendered

^t Ibid. can. viii. *Εἰ τις ἐπίσκοπος, ἢ πρεσβύτερος, ἢ διάκονος, τὴν ἁγίαν τοῦ πάσχα ἡμέραν πρὸ τῆς ἱερῆς ἰσημερίας μετὰ Ἰουδαίων ἐπιτελέσει, καθαιρεῖσθω.* Conf. cod. Theod. lib. xvi. tit. v. de Hæreticis, leg. ix. Quicumque in unum paschæ diem non obsequenti religione convenerint, tales indubitanter, quales hac lege damnavimus, habeantur. Vide etiam tit. vi. leg. vi. de Protopaschitis.

^u Constantin. Epist. ap. Euseb. de vit. Constantin. lib. iii. c. xviii. et xix. tot.

^x Concil. Illiberrit. c. xlix. Admoneri placuit possessores, ut non patiantur fructus suos, quos a Deo percipiunt [cum gratiarum actione], a Judæis benedici; ne nostram irritam et infirmam faciant benedictionem. Si quis post interdictum facere usurpaverit, penitus ab ecclesia abjiciatur. (Labbé, vol. i. p. 976.)

^y Ibid. can. l. Si vero quis clericus vel fidelis [fuerit, qui] cum Judæis cibum sumserit, placuit eum a communione abstinere, ut debeat emendari.

^a Conc. Agathens. c. xl. Omnes deinceps clerici sive laici Judæorum convivia evitent: nec eos ad convivium quisquam excipiat. Quia quum apud Christianos, cibis communibus non utantur (Judæi), indignum est atque sacrilegum eorum cibos a Christianis sumi: quum ea, quæ apostolo permittente nos sumimus, ab illis judicentur immunda; ac sic inferiores incipiant esse Christiani quam Judæi, si nos, quæ ab illis apponuntur, utamur; illi vero a nobis oblata contemnunt. (Labbé, vol. iv. p. 1390.)

inferior to the Jews, if we eat of such things as they set before us, and they condemn what we offer them." Which canon is repeated in the same words in the Council of Vannes,^b and there is a rule in the Council of Epone^c to the same purpose. It appears also from the fourth Council of Toledo, that the Spanish Churches were much infested with this sort of complying and Judaizing Christians; some patronising the Jews in their perfidiousness; others turning downright apostates, and submitting to circumcision; and others indifferently conversing with them to the manifest danger of their own subversion. Against which last sort of compliers the sixty-first canon of that council is particularly directed; and there are six or seven canons more in the same place, one after another, relating to cases of the like nature, which need not here be related. The Council of Clermont^d makes it excommunication for a Christian to marry a Jew. And the third Council of Orleans prohibits it under the same penalty,^e together with sequestration of the persons from each other. St. Chrysostom inveighs against those who went out of curiosity to the Jewish synagogues, saying,^f it was the same thing as going to an idol-temple. "If

^b Concil. Venetic. can. xii.

^c Concil. Epæon. can. xv. A Judæorum conviviis etiam laicos constitutio nostra prohibuit; nec cum ullo clerico nostro panem comedat, quisquis Judæorum fuerit convivio inquinatus. (Labbé, vol. iv. p. 1578.)—Conc. Matiscon. i. c. xv. Ut nullus Christianus Judæorum conviviis participare præsumat. Quod si facere quicumque, quod nefas est dici, clericus aut sæcularis præsumserit, ab omnium Christianorum consortio se noverit compescendum, quisquis eorum impietatibus fuerit inquinatus. (Labbé, vol. v. p. 969.)—Conc. Aurel. III. c. xiii. Christianis convivia interdiciamus Judæorum; in quibus si forte fuisse probantur, annuali excommunicationi pro hujusmodi contumacia subiacebunt. (v. 299.)

^d Conc. Arvernens. c. vi. Si quis Judaicæ pravitati jugali societate conjungitur, et seu Christiana Judæo, seu Judæus Christianæ mulieri carnali consortio misceatur, quicumque horum tantum nefas admisisse dignoscitur, a Christianorum cœtu atque convivio et communione ecclesiæ, cujus sociatur hostibus, segregetur. (Labbé, vol. iv. p. 1804.)

^e Concil. Aurel. III. can. xiii. Christianis omnibus interdiciamus, ne Judæorum conjugiiis misceantur: quod si fecerint, usque ad sequestrationem, quisquis ille est, communione pellatur. (Labbé, vol. v. p. 299.)—Vide August. epist. cccxxiv. Quum certissime noveris, etiamsi nostræ absolutæ sit potestatis, quamlibet puellam in conjugium tradere, tradi a nobis Christianam nisi Christiano non posse. (Bened. 1700. vol. ii. p. 668. F.)

^f Chrysost. Homil. i. contra Judæos, tom. i. p. 442. D. (p. 392, 393, edit. Francof.) 'Εάν τις ἰδῇ σε τὸν ἔχοντα γνώσῃ εἰς συναγωγὴν ἀπερχόμενον, καὶ σάλπιγγας θεωροῦντα· οὐχὶ ἡ συνείδησις αὐτοῦ ἀσθενοῦς ὄντος οἰκοδομηθήσε-

any one sees thee, who hast knowledge, go to a synagogue, to see the trumpets, shall not the conscience of him that is weak, be emboldened to admire the Jewish ceremonies? Although there be no idol there, yet the devils inhabit the place. Which I say not only of the synagogue which is here, but of that of Daphne, that more impure pit of hell, which they call Matrona. I hear many of the faithful go thither, and sleep in the place. But God forbid I should call them the faithful. For the temple of Apollo and Matrona are equally profane. Is not that a place of impiety, where devils dwell, although there be no image there? where the murderers of Christ assemble, where the cross is cast out, where God is blasphemed, where the Father is not known, where the Son is reviled, where the grace of the Spirit is rejected?" He particularly bewails those,^c who went either to see or join with them in the celebration of their fasts and festivals, the feast of trumpets, the feast of tabernacles, and the fast of the great day of expiation, which came all in the month Tisri, or September, when he preached his sermons against the Jews. He notes also the wickedness of some^d who would draw others by force to go and take an oath in a Jewish synagogue upon a most unaccountable persuasion,

ται εἰς τὸ θαναμάζειν τὰ Ἰουδαϊκὰ πράγματα; . . . Εἰ γὰρ μὴ εἰδῶλον ἔστηκεν ἐκεῖ· ἀλλὰ δαίμονες οἰκοῦσι τὸν τόπον· καὶ τοῦτο οὐ περὶ τῆς ἐνταῦθα λέγω συναγωγῆς μόνον, ἀλλὰ καὶ τῆς ἐν Δάφνῃ· πονηρότερον γὰρ ἐκεῖ τὸ βάραθρον, ὃ δὴ καλοῦσι Ματρῶνης· καὶ γὰρ πολλοὺς ἤκουσα τῶν πιστῶν ἀναβainein ἐκεῖ, καὶ παρακαθεύδειν τῷ τόπῳ· ἀλλὰ μὴ γένοιτό ποτε τούτους πιστοὺς προσεῖπέν μοι καὶ τὸ Ματρῶνης καὶ τοῦ Ἀπόλλωνος ἱερὸν, ὁμοίως ἐστὶ βέβηλον· εἰ δὲ τίς μου τόλμαν καταγινώσκει, πάλιν ἐγὼ τὴν ἐσχάτην αὐτοῦ καταγνώσομαι μανίαν. εἰπέ γάρ μοι, ὅπου δαίμονες οἰκοῦσιν, οὐχὶ ἀσεβείας χωρίον ἐστὶ, κἀν μὴ ξόανον εἰστίκει; ὅπου Χριστοκτόνοι συνέρχονται, ὅπου σταυρὸς ἐλαύνεται, ὅπου βλασφημεῖται Θεός, ὅπου Πατὴρ ἀγνοεῖται, ὅπου Υἱὸς ὑβρίζεται, ὅπου Πνεύματος ἀτεθεῖται χάρις;

^c Ibid. p. 433. D. (p. 384, edit. cit.) Ἔορται τῶν ἀθλίων καὶ ταλαιπώρων Ἰουδαίων μέλλουσι προσελαύνειν συνεχεῖς καὶ ἐπάλληλοι, αἱ σάλπιγγες, αἱ σκηνοπηγίαί, αἱ νηστεῖαι· καὶ πολλοὶ τῶν μεθ' ἡμῶν τεταγμένων, καὶ τὰ ἡμέτερα λεγόντων φρονεῖν, οἱ μὲν ἐπὶ τὴν Ξίαν ἀπαντῶσι τῶν ἑορτῶν, οἱ δὲ καὶ συνεορτάζουσι· καὶ τοῦτο τὸ πονηρὸν ἔθος βούλομαι τῆς ἐκκλησίας ἀπελάσαι νῦν.

^d Ibid. p. 437. C. (p. 388, edit. Francof.) Καὶ γὰρ πρὸ τούτων τῶν τριῶν ἡμερῶν, (πιστεύσατε, οὐ ψεύδομαι) γυναῖκα τινὰ εὐσχήμονα καὶ ἐλευθέραν, κοσμίαν καὶ πιστὴν, εἶδον ἀναγκαζομένην ὑπὸ τινος μαροῦ καὶ ἀναισθητῶν, δοκούντος εἶναι Χριστιανοῦ (οὐ γὰρ ἂν εἶπομι τὸν τὰ τοιαῦτα τολμῶντα, Χριστιανὸν ἐλκερινῇ) εἰς τὰ τῶν Ἑβραίων εἰσελθεῖν, κάκει παρασχεῖν ὄρκον περὶ τῶν ἀμφισβητουμένων αὐτῷ πραγμάτων· . . . ὃ δὲ πολλοὺς ἐφ' ἧς πρὸς αὐτὸν εἰρηκέναι, φοβερωτέρους τοὺς ἐκεῖ γενομένους ὄρκους εἶναι.

that an oath given there was more formidable than any other whatsoever. For these and many other reasons, which he there largely pursues,ⁱ he styles all such only half-Christians, *Χριστιανοὶ ἐξ ἡμισείας*. He has two other^k whole sermons against those who observed the Jewish fasts, and frequented their synagogues: in the latter of which he addresses himself to them in these words: "We have now clearly proved that the places where the Jews assemble, are inhabited by devils. How then dardest thou, after being in the chorus of devils, return to the assembly of the Apostles? How is it that thou art not afraid, after communicating with those who shed the blood of Christ, to come and communicate at the holy table, and partake of that precious blood? Does not horror and trembling seize thee, after having committed so great wickedness? Dost thou not reverence the holy table? Wherefore I exhort you, ad-

ⁱ Ibid. p. 440. (p. 389.) *Ποίαν ἔξεις συγγνώμην, Χριστιανὸς ὢν ἐξ ἡμισείας;*

^k Chrysost. Homil. lii. in eos qui pascha jejulant, et Homil. liii. in eos qui cum Judæis jejulant, tom. v. p. 721. B. (Homil. lv. lvi. p. 645. b. edit. Franef.) *Ὁκ ἤκουσας ἐν τῇ προτέρᾳ διαλέξει σαφῶς ἀποδείξαντος ἡμῖν τοῦ λόγου, ὅτι καὶ τὰς ψυχὰς αὐτὰς τῶν Ἰουδαίων καὶ τοὺς τόπους, ἐν οἷς συλλέγονται, δαίμονες κατοικοῦσι; πῶς οὖν, εἰπέ μοι, τολμᾷς μετὰ δαιμόνων χορεύσας πρὸς τὸν τῶν ἀποστόλων σύλλογον ἐπανελθεῖν; πῶς δὲ οὐ φρίττεις ἀπελθὼν καὶ κοινωνήσας ἐκείνοις, τοῖς τὸ αἷμα ἐκχέουσι τοῦ Χριστοῦ, ἐλθεῖν καὶ κοινωνῆσαι τῆς ἱερᾶς τραπέζης, καὶ τοῦ αἵματος μετασχεῖν τοῦ τιμίου; οὐ φρίττεις, οὐ δέδοικας τοιαῦτα παρανομῶν; τὴν τράπεζαν αὐτὴν οὐκ αἰδῇ; Ταῦτα πρὸς ὑμᾶς ἐγὼ διελέχθην, ταῦτα πρὸς ἐκείνους ὑμεῖς, κἀκεῖνοι πρὸς τὰς ἐαυτῶν γυναικας· εἰς τὸν ἕνα οἰκοδομεῖτε· κἀν μὲν κατηχούμενος ἦ ὁ τὰ τοιαῦτα νοσῶν, τῶν προθύρων εἰργέσθω· ἂν δὲ πιστὸς καὶ μεμνημένος, τῆς ἱερᾶς τραπέζης ἀπελανθῇσθω· οὐ γὰρ πάντα τὰ ἁμαρτήματα παραινέσεως δέεται καὶ συμβουλῆς, ἀλλ' ἔστιν ἡ τομῇ συντόμῃ καὶ ὀξυτάτῃ διορθοῦσθαι πέφυκε. καὶ καθάπερ τῶν τραυμάτων τὰ μὲν ἀνεκτότερα προσηνεστέροις εἰκει φαρμάκοις; τὰ δὲ σεσηπότα καὶ ἀνίατα καὶ τὸ λοιπὸν ἐπινεμόμενα σῶμα, αἰχμητῆς σιδήρου δέεται καὶ φλογός· οὕτω δὴ καὶ ἐπὶ τῶν ἁμαρτημάτων, τὰ μὲν παραινέσεως μακροτέρας χρεῖαν ἔχοντα, τὰ δὲ ἐλέγχων ἀποτόμων. Διόπερ καὶ ὁ Παῦλος ἐκέλευσε μὴ πάντα παραινεῖν, ἀλλὰ καὶ ἐλέγχειν ἀποτόμως, οὕτω λέγων, Δεῖ ἦν αἰτίαν ἐλεγεῖ αὐτοὺς ἀποτόμως· ἐλέγξωμεν οὖν αὐτοὺς ἀποτόμως νῦν, ἵνα ἐπὶ τοῖς φθάσασιν αἰσχυνθῆντες καὶ καταγόντες ἐαυτῶν, μηκέτι τὴν ἀπὸ τῆς παρανόμου νηστείας δεξιῶνται λύμην. Διὰ ταῦτα καὶ ἐγὼ τὴν παραινέσιν λοιπὸν ἀφείλξω, μαρτύρομαι καὶ βοῶ· Εἴ τις οὐ φιλεῖ τὸν Κύριον Ἰησοῦν Χριστόν, ἔστω ἀνάθεμα· τοῦ δὲ μὴ φιλεῖν τὸν Κύριον τί μείζον ἂν γένοιτο τεκμήριον, ἀλλ' ἡ ὅταν τοὺς ἀποκτείνοντας αὐτὸν κοινωνοὺς ἔχῃ τις τῆς ἑορτῆς; τούτους οὐκ ἐγὼ ἀνεθεμάτισα, ἀλλὰ Παῦλος· μάλλον δὲ οὐδὲ Παῦλος, ἀλλ' ὁ Χριστὸς, ὁ δὲ ἐκείνου λαλῶν, καὶ ὁ ἐν τοῖς ἐμπροσθεν εἰπὼν, "Ὅτι ἐν νόμῳ δικαιοῦμενοι τῆς χάριτος ἐξέπεισον.*

monish and edify one another. If any man be a catechumen, who labours under this distemper, let him be driven from the doors of the Church: if he be one of the faithful, and initiated in the holy mysteries, let him be driven from the holy table. All sins need not exhortation and counsel: there are some that naturally require a more quick and sharp abscission. I therefore from henceforth shall abstain from all farther admonition, and protest, and proclaim, ‘If any man love not the Lord Jesus Christ, let him be anathema.’ And what greater argument can there be of any one’s not loving Christ, than his communicating with those in their festivals, who killed Christ? It is not I that anathematize these, but Paul, yea Christ that speaks by Paul, and says, ‘Whoever of you are justified by the law, ye are fallen from grace.’ In his comment upon those words of St. Paul to Titus,¹ ‘Rebuke them sharply, that they may be sound in the faith,’ he speaks again of this matter: “If they who make a distinction of meats, are not sound, but weak, what shall we say of those who fast with the Jews, and observe their sabbaths with them, and go to their synagogues, to that at Daphne, called the cave of Matrona, and that in Cilicia, called the place of Cronos, or Saturn?” In his sixth homily against the Jews,^m he inveighs vehemently against those who went to the synagogues to get charms and amulets to cure diseases, in which the Jews pretended to a peculiar art above others, and this tempted many vain Christians to have recourse to them: but of this I have spoken before in the last chapter out of Chrysostom, and shall only here add, that the Jews boasted much of this art as coming to them from some apocryphal writings of king Solomon, such as his book of prayers, or enchantments to cure diseases, and his book of exorcisms, or conjurations to cast out devils: both which are mentioned by Josephus,ⁿ who magnifies the art as still remaining among

¹ Homil. iii. in Tit. p. 1709. line 9. (p. 640, edit. Francof.) *Εἰ δὲ οἱ βρώματα ἐπιτηροῦντες οὐχ ὑγιαίνουσιν, ἀλλὰ νοσοῦσι καὶ ἀσθενοῦσι, ... τί ἂν εἴποιμι περὶ τῶν τὰ αὐτὰ νηστεούντων αὐτοῖς; περὶ τῶν σαββατιζόντων; περὶ τῶν εἰς τόπους ἀπερχομένων ἑκαίνοις ἀφιερωμένους; τὸν ἐν Δάφνῃ λέγω, τὸ τῆς Ματρῶνης λεγόμενον σπήλαιον, τὸν ἐν Κιλικίᾳ τόπον, τὸν τοῦ Κρόνου λεγόμενον.*

^m Chrysost. Hom. vi. in Judæos, tom. i. p. 536. (p. 473, edit. Francof.) Vide supra, cap. v. § vi. sub litt. (s) p. 63.

ⁿ Joseph. Antiquit. lib. viii. c. ii. *Παρίσχε δ' αὐτῷ μαθεῖν ὁ Θεὸς καὶ τὴν*

them, speaking of one Eleazar, who according to the rules there prescribed, pretended to cure one possessed with a devil, in the presence of Vespasian. Origen also^o mentions these books, and says, some Christians adjured devils after the same manner by forms out of apocryphal and Hebrew books, in imitation of those of Solomon; which he does by no means allow, but says it is Judaical, and not according to the power given by Christ to his disciples. By all which it appears, that as the Jews pretended much to this power, so many Christians were so vain as to have secret recourse to them, (for Chrysostom says, they were ashamed to do it in public,) imagining their enchantments to be of more efficacy than any others. Which was a double crime, first to make use of charms; and then to take them from the enemies of Christ, to the flagrant scandal of the Christian religion. Whenever therefore any were convicted of this crime, they were sure to feel the utmost severity of ecclesiastical censure.

SECT. IV.—*Of such as apostatized voluntarily into Heathenism.*

Another sort of apostates were such as fell away voluntarily into heathenism, after they had for some time made profession of Christianity. These differed from common lapsers into idolatry in this, that the common lapsers fell by violence, and the fear and terror of persecution; but these fell away by

κατὰ τῶν δαιμόνων τέχνην εἰς ὠφέλειαν καὶ θεραπείαν τοῖς ἀνθρώποις ἐπιδάς τε συνταξάμενος, αἷς παρηγορεῖται τὰ νοσήματα, καὶ τρόπους ἐξορκώσεων κατέλειπεν. οἷς ἐνδούμενα τὰ δαιμόνια ὡς μηκέτ' ἐπανελθεῖν ἐκδύκουνσι. καὶ αὕτη μέχρι νῦν παρ' ἡμῖν ἡ θεραπεία πλεῖστον ἰσχύει. ἰστόρησα γάρ τινα Ἐλεάζαρον τῶν ὁμοφύλων, Οὐεσπασιανοῦ παρόντος καὶ τῶν υἱῶν αὐτοῦ, καὶ χιλιάρχων καὶ ἄλλων στρατιωτικῶν πλήθους, τοὺς ὑπὸ τῶν δαιμονίων λαμβανόμενους ἀπολύοντα τούτων. ὁ δὲ τῆς θεραπείας τρόπος τοιοῦτος ἦν· προσφέρων ταῖς ῥίσι τοῦ δαιμονιζομένου τὸν δακτύλιον, ἔχοντα ὑπὸ τῇ σφραγίδι ῥίζαν, ἐξ ᾧ ὑπείδειξε Σολομών, ἔπειτα ἐξέιλκεν ὁσφραινομένῳ διὰ τῶν μυκτήρων τὸ δαιμόνιον· καὶ πεσόντος εὐθὺς τοῦ ἀνθρώπου, μηκέτ' εἰς αὐτὸν ἐπανελθεῖν ἔρκου, Σολομῶνός τε μεμνημένος, καὶ τὰς ἐπιδάς, αἷς συνῆθηκεν ἐκείνος, ἐπιλέγων. (Hudson. vol. i. p. 339. 13.)

^o Origen. tract. xxxv. in Matth. p. 188. (p. 120. Par. 1604.) Non est secundum potestatem, datam a Salvatore, adjurare dæmonia: Judaicum enim est. Hoc etsi aliquando a nostris tale aliquid fiat, simile fit ei, quod a Salomone scriptis adjurationibus solent dæmones adjurari. Sed ipsi qui utuntur adjurationibus illis, aliquoties nec idoneis constitutis libris utuntur: quibusdam autem et de Hebræo acceptis adjurant dæmonia.

principle and choice, and out of a dislike to religion, and love of Gentilism, which they preferred before the religion of Christ, when they might without any molestation have continued in it. And as the one usually returned as soon as they had opportunity, so the other commonly continued apostates all their days. The imperial laws, at least from the time of Theodosius, denied such the common privilege of Roman subjects, depriving them of the power of disposing of their estates by will:—as appears from two laws^p of Theodosius the Great in the Theodosian code, which the other succeeding emperors confirmed. Particularly Valentinian junior not only denied them the power of making their own wills, but of receiving any benefit^q from others by will: no man might make them his heirs, nor could they succeed to any inheritance. They were to have no commerce of society with others; their testimony was not to be taken in law; they were to be infamous and of no credit among men; among whom they were allowed to live without banishing, only to make it the greater punishment, to live among men, and not enjoy the common privileges of men. Nay, they were never to regain their ancient state: though

^p Cod. Theod. lib. xvi. tit. vii. de apostatis leg. i. (vol. vi. p. 203.) *His, qui ex Christianis pagani facti sunt, eripiatur facultas, jusque testandi. Omne defuncti, si quod est, testamentum, submota conditione, rescindatur.* Ibid. leg. ii. *Christianis ac fidelibus, qui ad paganos ritus cultusque migrarunt, omnem in quamcumque personam testamenti condendi interdicimus potestatem, ut sint absque jure Romano.* (vol. vi. 204.) Conf. *ibid.* leg. iii. iv. v. vi. vii.

^q Ibid. leg. iv. (vol. vi. p. 207.) *Hi, qui sanctam fidem prodiderint, et sanctum baptismum profanaverint, a consortio omnium segregati, sint a testimoniis alieni, testamenti non habeant factionem: Nulli in hæreditate succedant: a nemine scribantur hæredes: Quos etiam præcepissemus procul abjici, ac longius amandari, nisi pœnæ visum fuisset esse majoris, versari inter homines, et hominum carere suffragiis. Sed nec umquam in statum pristinum revertentur: Non flagitium morum obliterabitur pœnitentia, neque umbra aliqua exquisitæ defensionis, aut muniminis obducetur: Quoniam quidem eos, qui fidem, quam Deo dicaverant, polluerunt, et prodentes divinum mysterium in profana migrarunt, etc.—*Ibid. leg. v. *Si quis splendor conlatus est in eos . . . perdant, ut de loco suo statuque dejecti perpetua urantur infamia, &c.—*Ibid. leg. vi. *Eos, qui quum essent Christiani, idolorum se superstitione impia maculaverint, hæc pœna persequitur, ut testandi in alienos non habeant facultatem, etc.—*Ibid. leg. vii. *Apostatarum sacrilegum nomen singulorum vox continuæ accusationis incesset, et nullis finita temporibus hujuscemodi criminis arceatur indago, &c.—*Cod. Theod. lib. xi. tit. xxxix. de fide testium leg. xi. *Hi, qui sanctam fidem prodiderint et sacrum baptismum profanarint, a consortio omnium segregati, sint a testimoniis alieni, &c.* (Lugdun. vol. iv. p. 332.)

they repented and returned, this should be no benefit to them in this respect; their repentance should never obliterate their crime, because they had broken their faith to God. This was their condition in temporals. As to their spiritual estate, by some canons of the Church they were as severely treated. The Council of Eliberis^r denies communion to the last to all such apostates, because they doubled their crime, not only in absenting from the Church, but in defiling themselves with idolatry also. Whereas such lower apostates as only absented themselves from religious assemblies^s for a long time, and did not commit idolatry, if afterward they returned again to the Church, they might be admitted upon ten years' penance to the communion. Cyprian^t says, "Many of his predecessors in Africk denied communion to the very last to all such as were guilty of the three great crimes, apostasy, adultery, and murder." And though this rigour was a little abated in his time, yet they still held idolatrous apostates to penance all their lives. Which is also noted by^u Siricius bishop of Rome, who says, 'apostates were to do penance as long as they lived, and only to have the grace of reconciliation at the point of death.' And this favour was allowed them only upon proviso that they returned and submitted to penance voluntarily in their lifetime, before any necessity or sickness drove them to it: for if they continued apostates to the last extremity, and only desired to be reconciled when the fear of imminent death was upon them, then Cyprian^x assures us, it was denied them; because it was

^r Concil. Illiberit. c. i. Placuit inter eos, qui post fidem baptismi salutaris, adulta ætate, ad templum idololatraturus accesserit, et fecerit, quod est crimen principale, (quia est summum scelus,) placuit nec in fine eum communionem accipere. (Labbé, vol. i. p. 969.)

^s Ibid. cap. xlv. Si quis fidelis apostata, per infinita tempora, ad ecclesiam non accesserit; si tamen aliquando fuerit reversus, nec fuerit idololatra, post decem annos, placuit communionem accipere.

^t Cyprian. epist. lii. al. lv. ad Antonian. Oxon. 1682, p. 110. (p. 247, fin. edit. Fell. Amstelod. 1700.) Apud antecessores nostros, quidam de episcopis istic in provincia nostra dandam pacem mœchis non putaverunt, et in totum pœnitentiæ locum contra adulteria clausurunt, &c.

^u Siric. epist. i. ad Himerium, c. iii. Apostatis, quamdiu vivunt, agenda pœnitentia est, &c. (Labbé, ii. p. 1018. E.)

^x Cyprian. ibid. p. 111. (p. 248, cit. edit.) Nec dignus est in morte accipere solatium, qui se non cogitavit esse moriturum.

not repentance, but the fear of approaching death only that made them desire a reconciliation. And the first Council of Arles^y made a like decree, that such apostates should not be received to communion, unless they recovered, and brought forth fruits worthy of repentance. The true reason of which severity was to deter men from depending too much on a death-bed repentance. For except in the case of martyrdom (which Cyprian^z allows) such apostates had no time to demonstrate by their works that they were real penitents; and therefore the Church denied them absolution, and remitted them wholly to God's unerring judgment.

SECT. V.—*Of Heretics and Schismatics, and their Punishments, both ecclesiastical and civil.*

The next sort of delinquents against the first commandment were heretics and schismatics: the one of which transgressed against the doctrine of faith delivered by the Church; and the other, against the unity of the worship and discipline which compacted the church into one mystical body of Christ. In each of these there were several degrees of sin, which were accordingly treated with different degrees of ecclesiastical censure. But because it was impossible for lawgivers to know the particular motives and inducements that might engage men in heresy or schism; therefore the laws were made in general terms against them, and the allowances that were proper to be made upon any occasion for the abatement of the rigour of them with respect to particular persons, were left to the discretion of the judges that were to put them in execution. I shall first give a short account of the civil penalties that were inflicted on them by the imperial laws of the state; and then

^y Concil. Arelat. I. c. xxiii. citat. supr. c. iv. § v. sub litt. (u) p. 11.

^z Cyprian. de Lapsis, Oxon. 1682, p. 127. (p. 91, edit. Amstel.) Sic hic Casto et Emilio aliquando Dominus ignovit: sic in prima congressione devictos, victores in secundo prælio reddidit, ut fortiores ignibus fierent, qui ignibus antecessissent; et unde superati essent, inde superarent. Deprecabantur illi non lacrimarum miseratione, sed vulnerum; nec sola lamentabili voce, sed laceratione corporis et dolore. Manabat pro fletibus sanguis, et pro lacrimis cruor semiustulatis visceribus defluebat, &c. See epist. xiv. al. xix. et epist. lv. ad Anton. p. 102. (p. 242, edit. Amstelod.)

consider the ecclesiastical punishments that were inflicted on them by the laws of the Church.

SECT. VI.—*Of the Civil Punishments inflicted on them by the Laws of the State.*

The laws of the state made against heretics and schismatics by the Christian emperors from the time of Constantine, are chiefly comprised under one title, 'de Hæreticis,' in the Theodosian code, which are too many and too long to be here recited: therefore I shall only give a short abstract of them, as they are collected by Gothofred^a in his premonition to that title. There he observes eleven distinct kinds of punishment inflicted on them in general, besides the particular laws that were made against their teachers, their bishops and clergy, and their conventicles, and all such as favoured or abetted them.

The first of these is the general note of infamy affixed to them all in common: the laws always styling them infamous persons. (Leg. 7, 13, 54, de Hæreticis; Leg. 2, de Fide Catholica.)

Secondly, the affixing on some particular sects special names of infamy and reproach; as when Constantine ordered the Arians to be called Porphyrians; and Theodosius Junior, the Nestorians to be branded with the name of Simonians. (Leg. 66, de Hæreticis.)

Thirdly, all commerce forbidden to be held with them. (Leg. 17, 18, 36, 40, 48, de Hæreticis.)

Fourthly, the depriving them of all offices of profit and dignity in the Militia Palatina, or civil administration. Which was first enacted by Theodosius, and confirmed by the succeeding emperors. (Leg. 9, 25, 29, 42, 48, 58, 61, 65.) Particularly Gothofred commends that as an elegant saying of Honorius, Leg. 42, de Hæreticis; "Nullus nobis sit aliqua ratione conjunctus, qui nobis fide et religione discedat; We will have none employed about us, that differs from us in faith and religion." Yet he observes¹ that all burdensome offices both

^a Gothofred. paratitlon ad cod. Theodos. lib. xvi. tit. v. de hæreticis.

¹ Gothofred. ibid. vol. vi. p. 109. Et tamen neque a castrensi seu armata militia prohibiti leg. lxxv. neque a curia aut cohortali militia, leg. xlvi. lxi. lxxv.

of the camp and Curia, what we now call military and municipal offices, were imposed upon them. Which is confirmed by one of Justinian's Novels,^b which the learned reader may see in the *note*.

Fifthly, they were rendered intestate, that is, they were unqualified either to dispose of their estates by will, or receive estates from any others. Thus particularly the Manichees were punished, (Leg. 7, 9, 18, 65, de Hæreticis; and Leg. 3, de Apostatis.) And so the Eunomians, (Leg. 17, 25, 49, 50, 58, de Hæreticis.) And the Donatists, (Leg. 54, de Hæreticis, and Leg. 4, ne sanctum Baptisma iteretur.) Pursuant to which laws, all the goods of heretics, or whatever was left them, were liable to be confiscated either to the Emperor's exchequer, or to the people of Rome. (Leg. 7, 9, 17, 18, 49, de Hæreticis.)

Sixthly, the right of giving or receiving donations was denied them. (Leg. 7, 9, 36, 40, 49, 50, 58, 65, de Hæreticis; and Leg. 4, ne sanctum baptisma iteretur.) Only by one law some few persons were excepted, to whom they might give donations. (Leg. 65, de Hæreticis.)

Seventhly, the Manichees, Cataphrygians, Priscillianists, or followers of Priscilla, the Montanists, Donatists, and all that were rebaptized by them, are deprived of the right of contracting, buying and selling. (Leg. 40, 48, 54, de Hæreticis; and Leg. 4, ne sanctum baptisma iteretur.)

Eighthly, pecuniary mulcts and fines were imposed upon them: (Leg. 39, 52, 54, de Hæreticis:) and these are often mentioned by St. Austin,^c who yet intimates that they were

^b Justin, Novell. xlv. Sinto decuriones, quemadmodum jam cohortalibus ante legibus expressum est; neque ullus religionis cultus tali eos fortuna eximito. . . . Indigni tamen omni curiali existunt honore. Et quia multa leges decurionibus privilegia tribuunt, tum ne ictus fustium illis inferatur, &c. nullo horum perfruunt. . . Implento tam personalia quam patrimonialia munera, neque eos lex ab his eximat: honore autem nullo perfruunt, sed fortunam sustinento cum infamia.

^c Augustin. epist. lxxviii. ad Januar. ii. 164. C. (p. 326, edit. Basil. 1569.) Poena decem librarum auri, quæ in hæreticos ab imperatoribus fuerat constituta, &c. Id. epist. l. ad Bonifac. (p. 219, edit. Basil.) . . . Si legem piissimæ memoriæ Theodosii, quam generaliter in omnes hæreticos promulgavit, 'ut quisquis eorum episcopus vel clericus ubilibet esset inventus, decem libris auri mulctaretur,' &c. (vol. ii. 497. E.) See epist. clxvi. clxvii. clxxiii. Id. contr. Crescon.

seldom executed against them, and frequently begged off by the Catholics interceding for them.

Ninthly, they were proscribed, transported, and banished. (Leg. 13, 14, 15, 16, 18, 20, 29, 40, 52, 53, 57, 58, de Hæreticis.) Thus Sozomen^d says, Constantine banished Arius, and all who opposed the decrees of the Council of Nice. And St. Austin^e says, Constantine banished the Donatists; and all the succeeding emperors, except Julian the apostate, made severe laws against them. And Julian only recalled them in devilish policy, thinking, by division of Christians into several sects, to destroy them totally out of the world. Honorius banished Jovinian into Boa, an island of Dalmatia, as is said in the law particularly^f made against him in the code. And

lib. iii. c. xlvii. Quid aliud, nisi quod pars Donati jam sciret, se ad illam poenam aurariam cum ceteris hæreticis pertinere &c. ?—Id. contr. epist. Parmen. lib. i. c. xii. (tom. vii. p. 22, edit. Basil.) Aliorum imperatorum leges, quæ vehementer adversus eos latæ sunt, quis ignorat? In quibus una generalis adversus omnes, qui Christianos se dici volunt, et ecclesiæ catholicæ non communicant, sed in suis separatim conventiculis congregantur, id continet, Ut vel ordinator clerici, vel ipse ordinatus denis libris auri mulcentur.

^d Sozom. lib. i. c. xx. (Vales. Amst. 1695. p. 354. C.) Ὑπερορίῃ τε φυγῇ ζημωθήσεσθαι προηγόρευσε τὸν ἐναντίον τῶν δεδογμένων ἐρχόμενον, ὡς διαφθείραντα τοὺς θεῖους ὅρους.

^e Aug. (vol. ii. p. 349.) epist. clii. ad Donatistas. Protulerunt litteras Constantini, ad vicarium Verinum datas, ubi eos graviter detestatur, et propterea dicit de exilio relaxandos et furori suo dimittendos, quia jam Deus cœperat in illos vindicare . . . quando eos vehementer execratus, ideo jussit, ut de exilio dimitterentur, ut Deo judice, sicut etiam cœperant, punirentur.—Epist. clxvi. p. 289. (p. 757. edit. Basil.) (Antverp. 1700. vol. ii. p. 227. B.) Constantinus prior contra partem Donati severissimam legem dedit. Hunc imitati filii ejus talia præceperunt. Quibus succedens Julianus, desertor Christi et inimicus, supplicantiis vestris, Rogatiano et Pontio, libertatem perditionis parti Donati permisit: denique tunc reddidit basilicas hæreticis, quando templa dæmoniis, eo modo putans Christianum nomen posse perire de terris, si unitati ecclesiæ, de qua lapsus fuerat, invideret, et sacrilegas dissensiones liberas esse permetteret. . . . Huic successit Jovianus, qui quoniam cito mortuus est, nihil de rebus talibus jussit. Deinde Valentinianus; legite quæ contra vos jusserit. Inde Gratianus et Theodosius; legite, quando vultis, quæ de vobis constituerint. Quid ergo de filiis Theodosii miramini, quasi aliud in hac causa sequi debuerint, quam Constantini judicium, per tot Christianos imperatores firmissime custoditum?

^f Cod. Theod. lib. xvi. tit. v. de Hæreticis, leg. liii. Jovi[ni]anum sacrilegos agere conventus extra muros urbis sacratissimæ, episcoporum querela deplorat. Quare supra memoratum corripere præcipimus, et contusum plumbo, cum ceteris

Theodosius Junior banished Nestorius, as the historians^s note, after the Council of Ephesus had deposed him.

Tenthly, they were also in many cases subjected to corporal punishment, scourging, &c., before they were sent into banishment. (Leg. 21, 53, 54, 57, de Hæreticis, and Leg. 4, ne sanctum baptisma iteretur.)

Eleventhly, finally in some special cases they were terrified by sanguinary laws, which made them liable to death, though by the connivance of the princes, or the intercession of the Church, they were rarely put in execution against them. Gothofred says the first law of this kind was made by Theodosius, an. 382, against the Encratites, the Saccophori, the Hydroparastatæ, and the Manichees, which is the ninth law 'de Hæreticis.' After which example many other such laws were made against the heretical priests, who pretended to exercise their superstition against the prohibition of the law: and against such possessors as allowed them a conventicle to meet in: and against such as retained and concealed their pernicious books. (Leg. 15, 16, 34, 35, 36, 38, 43, 44, 51, 53, 54, 56, 63, de Hæreticis.)

Besides these laws and punishments, which chiefly affected their persons, Gothofred observes several other laws which tended to the extirpation of heresy. Such as, First, those which forbid heretical teachers to propagate their doctrine publicly or privately. (Leg. 3, 5, 13, 24, de Hæreticis, and Leg. 2, ne sanctum baptisma iteretur.)

Secondly, the laws which forbid heretics to hold public disputations by gathering companies of people together. (Leg. 46, de Hæreticis, and Leg. 1, 2, et 3, de his qui super religione contendunt.)

Thirdly, those which forbid heretics to ordain bishops, presbyters, or any other clergy. (Leg. 12, 14, 21, 22, 24, 26, 27, 57, 58, 65, de Hæreticis.)

Fourthly, such as deny to those that are so ordained, the suis participibus et ministris exilio, coerceri: ipsum autem machinatorem in insulam Boam festina celeritate deduci. (Lugdun. 1665. vol. vi. p. 174.)

^s Socrat. lib. vii. xxxiv. (Vales. Amst. 1695. p. 307. D.) Καὶ ἄχρι νῦν καθηρμένως, εἰς ἑξορίαν πεμφθεὶς εἰς τὴν Ὀάσιν κατοικεῖ.—Evagr. lib. i. c. vii. (Vales. Amst. 1695. p. 263. A.) Ὡς καὶ Ἰωάννην τὸν τῆς Ἀντιόχου πρόεδρον ταῦτα μηνύσαι, ἀπειργία τε τὸν Νεστόριον καταδικασθῆναι.

names and privileges of bishops and clergy. (Leg. 1, 24, 26, 28, de Hæreticis. Leg. 2, and 3, de Episcopis. Leg. 1, ne sanctum baptisma iteretur.)

Fifthly, such laws as prohibit all heretical conventicles and assemblies. (Leg. 4, 5, 6, 10, 11, 12, 14, 15, 19, 20, 21, 26, 30, 45, 52, 53, 54, 56, 65, de Hæreticis, and Leg. 7, ne sanctum baptisma iteretur.)

Sixthly, such as forbid heretics to build conventicles; (Leg. 1, 2, 6, 7, 8, 12, 30, 65, de Hæreticis, and Leg. 3, de Fide Catholica,) and forbid any one to leave any legacy to them (Leg. 65, de Hæreticis): and ordering both the conventicles and whatever was so bequeathed to them, either to be confiscated to the public exchequer (Leg. 3, 4, 8, 12, 21, 30, de Hæreticis); or else to be given to the use of the catholic churches. (Leg. 43, 52, 54, 57, 65, de Hæreticis, and Leg. 2, ne sanctum baptisma iteretur.) Only excepting the Novatians, to whom Constantine shewed a little favour, because though they were schismatical, yet they held to the Catholic faith. (Leg. 2, de Hæreticis. Socrat. lib. 2. cap. 30. lib. 5. cap. 10. Sozomen. lib. 8. cap. 1.)

Seventhly, such laws as allow slaves to inform against their heretical masters, and gain their freedom by coming over to the Church. (Leg. 40, de Hæreticis, and Leg. 4, ne sanctum baptisma iteretur.)

Eighthly, such laws as deny the children of heretical parents their patrimony and inheritance, except they returned to the Catholic Church. (Leg. 7, 9, 40, de Hæreticis; Leg. 7, ne sanctum baptisma iteretur.)

Ninthly, such laws as order the books of heretics to be burned. (Leg. 34, et 65, de Hæreticis.)

This is the short account of those several penal laws, which the emperors made against heretics, from the time of Constantine to Theodosius junior and Valentinian III., which the learned reader may find at length under their respective titles in both the Theodosian and Justinian code. It is sufficient here to have given an abstract of them, which may serve to give some light to the laws of the Church that were made against them; which I now proceed to give a more particular account of, as more properly relating to the discipline of the Church.

SECT. VII.—*How Heretics were treated by the discipline of the Church.* 1. *They were anathematized and cast out of the Church.*

And here we may observe, in the first place, that heresy was always accounted one of the principal crimes that a Christian could be guilty of, as being a sort of apostasy from the faith, and a voluntary apostasy, which was a circumstance that added much to the heinousness of the offence. Therefore Cyprian comparing the crimes of heretics and schismatics with those that lapsed into idolatry by the violence of persecution, says,^h “ This is a worse crime than that which the lapsers may seem to have committed, who yet do a severe penance for their crime, and implore the mercy of God by a long and plenary satisfaction. The one seeks to the Church, and humbly entreats her favour; the other resists the Church, and proclaims open war against her. The one has the excuse of necessity; the other is detained in his crime by his own will only. He that lapses, hurts himself alone: but he that endeavours to make an heresy or schism, draws many others with him into the same delusion, Here is only the loss of one soul: but there a multitude is drawn into danger. The lapses is sensible that he has committed a fault, and therefore he mourns and laments for it: but the other grows proud, and swells in his crime; and pleasing himself in his errors, he divides the children from the mother, tempts and solicits the sheep from the shepherd, and disturbs the sacraments of God. And whereas a lapses sins but once, he sins every day. Finally a lapses may afterward become a

^h Cyprian. de Unitat. eccles. (p. 84, edit. Fell. Amstelod. 1700.) (Oxon. 1682. p. 117.) *Pejus hoc crimen (hæresis) est, quam quod admisisse lapsi videntur; qui tamen in penitentia criminis constituti, Deum plenius satisfactionibus deprecantur. Heic ecclesia quæritur et rogatur; illic ecclesia repugnatur. Heic potest necessitas fuisse; illic voluntas tenetur in scelere. Heic qui lapsus est, sibi tantum nocuit; illic qui hæresin vel schisma facere conatus est, multos secum trahendo decipit. Heic animæ unius est damnum; illic periculum plurimorum. Certe peccasse se hic et intelligit, et lamentatur et plangit; ille tumens in peccato suo, et in ipsis sibi delictis placens, a matre filios segregat, oves a pastore sollicitat, Dei sacramenta disturbat. Et quum lapsus semel peccaverit, ille quotidie peccat. Postremo lapsus, martyrium postmodum consequutus, potest regni promissa percipere; ille, si extra ecclesiam fuerit occisus, ad ecclesiæ non potest præmia pervenire.*

martyr, and obtain the promises of the kingdom; but the other, being out of the Church, cannot attain to the rewards of the Church, although he be slain for religion." This last argument is often insisted on by Cyprian,¹ and St. Austin, and Chrysostom, and others, to deter men from engaging in heresy and schism: and it implies that heretics did voluntarily cut themselves off from the communion of the Church, and stood condemned of themselves (as the Apostle words it, and some of the ancients understand it) by a voluntary excommunication or separation of themselves from the Church. Yet this did not hinder, but that notwithstanding any such separation of themselves, the Church ordinarily pronounced a more formal anathema or excommunication against them. As the Council of Nice ends her creed with an anathema against all those who

¹ Vide Cypr. *ibid.* p. 109. (p. 78, edit. cit.) Quisquis ab ecclesia segregatus adulteræ jungitur, a promissis ecclesiæ separatur. Nec pervenit ad Christi præmia, qui relinquit ecclesiam Christi.—*Ibid.* p. 113, 114. (p. 81, edit. cit.) Tales etiamsi occisi in confessione nominis fuerint, macula ista nec sanguine abluitur. Inexpiabilis et gravis culpa discordiæ, nec passione purgatur. Esse martyr non potest, qui in ecclesia non est: ad regnum pervenire non poterit, qui eam, quæ regnatura est, derelinquit. (p. 82, edit. Amstel.) Cum Deo manere non possunt, qui esse in ecclesia Dei unanimes noluerunt: ardeant licet flammis, et ignibus traditi, vel objecti bestiis animas suas ponant; non erit illa fidei corona, sed poena perfidiæ; nec religiosæ virtutis exitus gloriosus, sed desperationis interitus. Occidi talis potest, coronari non potest.—*Epist.* lv. ad Antonian. p. 108. (p. 246, edit. Amstelod.) Ubi (apud hæreticos et schismaticos) etsi occisus propter nomen postmodum fuerit extra ecclesiam constitutus, et ab unitate atque caritate divisus, coronari in morte non poterit.—*Ibid.* p. 114. (p. 251, edit. cit.) Christi ecclesiam dissipantes, nec si occisi pro nomine foris fuerint, admitti secundum apostolum possunt ad ecclesiæ pacem, quando nec spiritus, nec ecclesiæ tenuerunt unitatem. See *Epist.* lvii et lx. ad Cornelianum.—August. *contr. Litter. Petilian.* lib. ii, c. xxiii. (1700. vol. ix. p. 158. C.) Si schisma fecisti, impius es: si impius es, ut sacrilegus moreris, quum pro impietate puniris: si ut sacrilegus moreris, quomodo tuo sanguine baptizaris?—*De Baptismo*, lib. iv. c. xvii. (ix. 91. D.) 'Neque hoc baptisma (sanguinis) hæretico prodest,' inquit (Cyprianus), 'quamvis Christum confessus extra ecclesiam fuerit occisus:' quia caritatem non habuisse convincitur, de qua apostolus dicit, 'Et si tradidero corpus meum,' &c.—*Epist.* cciv. Foris ab ecclesia constitutus, et separatus a compage unitatis et vinculo caritatis, æterno supplicio puniretur, etiamsi pro Christi nomine vivus incenderetur. Hoc est enim, quod ait apostolus, 'Etsi tradidero,' &c. (1700. vol. ii. p. 467. C.)—Chrysost. *Homil.* xi. in Ephes. (p. 957, edit. Francof.) 'Ἀνὴρ δὲ τις ἄγιος εἶπτε τι δοκοῦν εἶναι τολμηρὸν, πλὴν ἀλλ' ὅμως ἐφθέγγετο· τί δὴ τοῦτο ἔστιν; οὐδὲ μαρτυρίου αἵμα ταύτην δύνασθαι ἐξαλείφειν τὴν ἁμαρτίαν ἔφησεν. (Paris. 1636. vol. v. p. 1107.)

opposed the doctrine there delivered; and the Council of Gangra closes every canon with anathema against the Eustathian heretics; and there are innumerable instances of this kind in the tomes of the councils, which it would be next to impertinent here only to refer to, they are so well known to all that have ever looked into them.

SECT. VIII.—*Secondly, debarred from entering the Church by some canons, though not by all.*

To proceed then; when they were once formally excommunicated, so long as they continued impenitent, they were by some rules of discipline debarred from the very lowest privileges of Church-communion; being forbidden to enter the Church, so much as to hear the sermon, or the Scriptures read in the service of the catechumens. The Council of Laodicea^k has a canon to this purpose, “that heretics, so long as they continue in their heresy, shall not be permitted to enter into the house of God.” And it is probable this rule might be observed in the strict discipline of some Churches. But it was no general rule: for I have had occasion to shew before,¹ out of the African and Spanish councils, and several passages of St. Chrysostom’s Homilies, that liberty was granted to heretics, together with Jews and heathens, to come into the church and hear the sermon preached and the Scriptures read, being these were proper for their instruction. They thought it not impossible but that heretics might be converted in the Church, as Polemon, a debauched young man, was converted in the school of Xenocrates; when coming, drunk and with his Bacchanal wreaths about his head, to hear the philosopher read his lecture, (which happened to be about temperance and modesty,) he was so affected therewith, that he not only became his scholar and his convert, but his successor also in the school of Plato.¹

^k Concil. Loadic. c. vi. Περὶ τοῦ, μὴ συγχωρεῖν τοῖς αἰρετικοῖς εἰσελθεῖν εἰς τὸν οἶκον τοῦ Θεοῦ. (Labbé, i. p. 1497.)

¹ Lib. xiii. c. i. § ii. vol. iv. p. 73.

¹ Valer. Maxim. lib. vi. c. ix. p. 327, edit. Lugd. Batav. 1640. Perditee luxuriæ Athenis adolescens Polemo, neque illecebris ejus tantummodo, sed etiam ipsa infamia gaudens; quum e convivio non post occasum solis, sed post ortum surrexisset, domumque rediens Xenocratis philosophi patentem januam vidisset; vino gravis, unguentis delibutus, sertis capite redimito, pellucida

The historians tell us, that Chrysostom by this means brought over many to acknowledge the divinity of Christ, whilst they had liberty to come to hear ^m his sermons. And the fathers of the Council of Valentia in Spain ⁿ give this as the reason, why they allowed heathens and heretics to come and hear the bishops preaching, and the reading of the Scriptures, because they had found by experience, that many by this means had been converted to the faith. So that the Church, which always studied men's edification, and not their destruction, in prudence so ordered her discipline, as to encourage heretics to frequent one part of her service, which she allowed to her penitents and catechumens. And if heretics were at any time denied it, there was some very particular and extraordinary reason for it.

SECT. IX.—*Thirdly, No one to encourage Heretics and Schismatics, by frequenting their assemblies.*

But there was not the same reason for allowing Catholics to frequent the assemblies or conventicles of heretics and schismatics; because this, instead of converting them, had rather been to have confirmed and hardened them in their errors: and therefore the prohibition in this case was more peremptory and universal, that no one should join with heretics in any

veste amictus, refertam turba doctorum hominum scholam ejus intravit. Nec contentus tam deformi introitu, consedit etiam, ut clarissimum eloquium, et prudentissima præcepta, temulentiae lasciviis elevaret. Orta deinde, ut par erat, omnium indignatione, Xenocrates vultum in eodem habitu continuit, ommissaque re quam diserebat, de modestia ac temperantia loqui cœpit. Cujus gravitate sermonis respiscere coactus Polemo, primum coronam capite detractam projecit; paullo post brachium intra pallium reduxit; procedente tempore, oris convivalis hilaritatem deposuit; ad ultimum totam luxuriam exiit, uniusque orationis saluberrima medicina sanatus, ex infami ganeone maximus philosophus evasit.

^m Sozom. lib. viii. c. ii. (Vales. p. 612. A 7.) Πλείστονς δὲ τῶν αὐτοῦ ἀκουόντων ἐκ' ἐκκλησίας, εἰς ἀρετὴν ὠφέλησε, καὶ ὑμόφρονας αὐτῷ περὶ τὸ θεῖον ἐποίησε.

ⁿ Concil. Valent. c. i. (Labbé, vol. iv. p. 1617.) Inter cetera hoc censuimus observandum; ut sacrosancta evangelia ante munus illationem, in missa [vel missam] catechumenorum, in ordine lectionum, post apostolum legantur; quatenus salutaria præcepta Domini nostri Jesu Christi, vel sermonem sacerdotis, non solum fideles, sed etiam catechumeni et poenitentes, et omnes, qui ex diverso sunt, audire, licitum habeant. Sic enim pontificum prædicatione audita, nonnullos attractos ad fidem evidenter scimus.

religious offices, and least of all in their conventicles, under pain of excommunication. To this purpose the Apostolical Canons, "If any bishop, presbyter, or deacon pray with heretics, let him be suspended: but if he suffer them to officiate as clergymen,^o let him be deposed." And again,^p "If any clergyman or layman go into a synagogue of Jews or heretics to pray, let him be excommunicated or deposed." In like manner the Council of Laodicea,^q "None of the Church are permitted to go to the cemeteries or martyries of heretics for prayer or worship, under pain of excommunication for some time, till they repent and confess their error." And again,^r "It is not lawful to pray with heretics or schismatics." "The assembly of heretics," says the Council of Carthage,^s "is not a Church, but a conventicle. Therefore with heretics^t no one shall either pray or sing psalms." "If a Catholic," says the Council of Lerida,^u "offer his children to be baptized by heretics, his oblation shall in no wise be received in the Church." But then this was to be understood, where a man might have baptism from a Catholic, and he chose rather to go to a heretic to receive it, without any necessity to compel him so to do: for otherwise, as has been observed before out of several places of St. Austin,^x in case of extreme necessity, a man was allowed to receive baptism from a heretic, rather than die without it. This

^o Can. Apost. xlv. (Labbé, vol. i. p. 36.) Ἐπίσκοπος ἢ πρεσβύτερος, ἢ διάκονος, αἱρετικοῖς συνευξάμενος μόνον, ἀφοριζέσθω· εἰ δὲ καὶ ἐπέτρεψεν αὐτοῖς ὡς κληρικοῖς ἐνεργῆσαι τι, καθαιρεῖσθω.

^p Ibid. c. lxn. (Labbé, (lxiii.) vol. i. p. 39.) Εἰ τις κληρικὸς, ἢ λαϊκὸς, εἰσέλθῃ εἰς συναγωγὴν Ἰουδαίων ἢ αἱρετικῶν προσ(ορ συν-)εὐξασθαι, καθαιρεῖσθω καὶ ἀφοριζέσθω.

^q Concil. Laodic. can. ix. (Labbé, vol. i. p. 1497.) Περὶ τοῦ μὴ συγχωρεῖν εἰς τὰ κοιμητήρια, ἢ εἰς τὰ λεγόμενα μαρτύρια πάντων τῶν αἱρετικῶν ἀπίνειν τοὺς τῆς ἐκκλησίας, εὐχῆς ἢ θραπείας ἕνεκα· ἀλλὰ τοὺς τοιοῦτους, ἔαν ὡσι πιστοῖς, ἀκοινωνήτους γίνεσθαι μέχρι τινός· μετανοοῦντας δὲ, καὶ ἐξομολογουμένους ἐσφάλλαι, παραδέχεσθαι.

^r Ibid. can. xxxiii. Ὅτι οὐ δεῖ αἱρετικοῖς ἢ σχισματικοῖς συνεῦχεσθαι.

^s Concil. Carth. IV. c. lxxi. Hæreticorum coetus, non ecclesia, sed conciliabulum est.

^t Ibid. can. lxxii. Cum hæreticis nec orandum nec psallendum.

^u Concil. Ilerd. c. xiii. Vide Hieron. dialog. cum Lucifer. c. v. Sciens ab hæreticis baptizatus, erroris veniam non meretur.

^x Aug. de Bapt. lib. i. c. ii. lib. vi. c. v. lib. vii. c. lii. cit. vol. v. cap. i. § iv. p. 386.

was not esteemed any breach of Catholic unity, neither was it the case which the discipline of the Church respected, when she forbade men to encourage heretics by a voluntary joining with them, and receiving baptism from them. Cyril of Jerusalem, in this sense,⁷ bids his catechumen abhor especially the conventicles of impious heretics, and have no communication with them. Chrysostom compares heretics to those⁸ that deface the king's coin: though it be but in one point, they subvert the Gospel thereby, and therefore Catholics ought to make a separation from them. "No one, (he says)⁹ ought to maintain any friendship with heretics. Since they maintain different doctrines, men ought not to mingle or join in their assemblies with them." And he adds, that 'to divide the Church by schism, is no less a crime than to fall into heresy, because it exposes the Church to the ridicule of the Gentiles.' There he also urges^b that famous saying of Cyprian, "The blood of Martyrdom cannot blot out this crime. For why art thou a martyr? Is it not for the glory of Christ? If, therefore, thou layest down thy life for Christ, why dost thou lay waste his Church, for which Christ laid down his own life?" Thus the ancients dissuade men from encouraging heretics and schismatics by resorting to their assemblies.

SECT. X.—*Fourthly, No one to eat or converse with Heretics, or receive their presents, or retain their writings, or make marriages with them, &c.*

There were many other marks of infamy and disgrace set upon hereticks by the laws of the Church joining with the laws of the state, to give men a greater abhorrence of them.

⁷ Cyril. Catech. iv. § xviii. Ἐξαιρέτως μίσει πάντα τὰ συνέδρια τῶν παρὰ νόμων αἱρετικῶν. (Paris. 1609. p. 102.)

⁸ Chrysost. in Galat. i. p. 972. (p. 789, edit. Francof.) Καθάπερ ἐν τοῖς βασιλικαῖς νομίσμασιν ὁ μικρὸν τοῦ χαρακτῆρος περικόψας, ὅλον τὸ νόμισμα βίβηλον εἰργάσατο· οὕτω καὶ τῆς ὑγιоῦς πίστεως καὶ τὸ βραχύτατον ἀνατρέψας, τῷ παντὶ λυμáινεται, ἐπὶ τὰ χεῖρονα προῖων ἀπὸ τῆς ἀρχῆς.

⁹ Chrysost. Homil. xi. in Ephes. p. 1108. (p. 960, edit. Francof.) Εἰ μὲν γὰρ καὶ δόγματα ἔχουσι ἐναντία, καὶ διὰ τοῦτο οὐ προσήκειν ἐκείνους ἀναμίγνυσθαι.

^b Ibid. p. 1107. (p. 957, edit. cit.) Οὐδὲ μαρτυρίῳ αἷμα ταύτην δύνασθαι ἐξαλείφειν τὴν ἁμαρτίαν ἐφησεν· εἰπὲ γάρ μοι, τίνας ἐνεκεν μαρτυρεῖς; οὐ διὰ τὴν δόξαν τοῦ Χριστοῦ; ὁ τοίνυν τὴν ψυχὴν προθύμενος ὑπὲρ τοῦ Χριστοῦ, πῶς τὴν ἐκκλησίαν πορθεῖς, ὑπὲρ ἧς τὴν ψυχὴν προήκατο ὁ Χριστός;

No one was so much as to eat at a feast, or converse familiarly with them ; no one might receive their Eulogiæ, or festival presents ; nor read or retain their writings, but discover and burn them. No one might make marriages, or enter into any affinity with them, except they would promise to return into the catholic Church. As long as they continued in heresy, their names were struck out of the ‘ Diptychs ’ of the Church : and if they died in heresy, no psalmody or other solemnity was used at their funeral ; no oblations were offered for them, nor any memorial ever after made of them in the solemn service of the Church. But because I have spoken of these things fully in the general description of the Church’s treatment of excommunicate persons before,¹ it may be sufficient only to have hinted these several points in this place, because these punishments were not peculiar to heretics, but belonged to all in general that were under the censure of excommunication.

SECT. XI.—*Fifthly, Heretics not allowed to be Evidence in any ecclesiastical cause against a Catholic.*

Yet there are two things of this kind, which it may not be improper to speak a little more particularly of here. 1. That by the laws of the Church, as well as the state, heretics were rendered infamous, and their testimony was not to be taken as evidence in any ecclesiastical cause whatsoever. ‘ The testimony of an heretic shall not be taken against a bishop,’ say^e the apostolical canons. ‘ In all judgment,’ says the Council of Carthage,^d ‘ examination shall be made into the conversation and faith both of the accuser and defendant.’ In the African Code there are two canons to this purpose ; the one forbidding all excommunicate^e persons (under which heretics are comprehended) to be evidence against any man, during the time of

¹ Cap. i. § xi. p. 95. seq.

^c Can. Apost. c. lxxi. Εἰς μαρτυρίαν τὴν κατὰ ἐπισκόπου αἰρετικὸν μὴ προσδέχεσθε.

^d Conc. Carth. IV. can. xcvi. (Labbé, vol. ii. p. 1207.) Quærendum in iudicio, cujus sit conversationis et fidei is qui accusat, et is qui accusatur.

^e Cod. Afric. can. cxxviii. (Labbé, vol. ii. p. 1134.) Ἦρесе πᾶσιν, ἐπειδὴ τοῖς ἀνωτέροις τῶν συνόδων ψηφίσμασι περὶ προσώπων κληρικῶν, τῶν μὴ ὀφειλόντων εἰς κατηγορίαν προσδεχθῆναι, ὥρισθη, καὶ οὐκ ἐπιχειργάσθη, ποῖα πρόσωπα μὴ προσδεχθῶσι· διὰ τοῦτο ὀρίζομεν, τοῦτον ὁρθῶς πρὸς κατηγορίαν μὴ εἰσδέχεσθαι,

their suspension : and the other expressly naming heretics^f among many others whose testimony was not to be admitted in law : such as slaves and freedmen against their own masters ; all mimics, and actors, and such other infamous persons ; all Jews and heathens ; and all such whose testimony was reprobated by the laws of the state ; except it were in some matter of their own private concerns, in which case every man was to have justice, and any one allowed to accuse another. The same equitable distinction is made by the general Council of Constantinople : ^g a man might have a private cause of complaint against a bishop, as that he was defrauded in his property, or in any the like cases injured by him : in which case his accusation was to be heard, without considering at all the quality of the person or his religion. For a bishop was to keep a good conscience ; and any man that complained of being injured by him, was to have justice done him, whatever religion he was of. But if the crime was purely ecclesiastical that was alleged against him, then the personal qualities of the accusers were to be examined ; and in the first place heretics are not allowed to accuse orthodox bishops in causes ecclesiastical ; neither any excommunicated persons, before they had first

ἄστις, μετὰ τὸ ἀπὸ κοινωνίας γενέσθαι, ἐν αὐτῷ ἔτι τῷ ἀφορισμῷ ὑπάρχει, εἴτε κληρικὸς εἴη, εἴτε λαϊκὸς, ὁ κατηγορῆσαι βουλόμενος.

^f Ibid. can. cxxix. (ibid. p. 1134.) Ὅμοίως ἤρρεσαν, ἵνα πάντες οἱ δοῦλοι, καὶ οἱ ἴδιοι ἀπελευθεροί, εἰς κατηγορίαν μὴ δεχθῶσι· καὶ πάντες, οὓς πρὸς κατηγορητὰ ἐκκλήματα οἱ δημόσιοι νόμοι οὐ προσδέχονται· πάντες ἔτι μὴν, οἱ τοῖς τῆς ἀτιμίας σπύλοις ἐβραντισμένοι, τοῦτ' ἔστι μῆμοι, καὶ ὅσα τοῖς αἰσχροτήσιν ὑποβέβληνται πρόσωπα· αἰρετικοὶ ἔτι μὴν, εἴτε Ἕλληνες, εἴτε Ἰουδαῖοι· πλὴν ὧμος πᾶσιν, οὓς ἡ τοιαύτη κατηγορία ἀρνείται, ἐν ταῖς ἰδίαις αἰτίαις τὴν τοῦ κατηγορεῖν ἄδειαν μὴ ὀφείλιν ἀρνεῖσθαι.

^g Concil. Constantinop. can. vi. (tom. ii. Conc. p. 949.) Εἰ μὲν τις οἰκείαν τινὰ μέμψιν, τοῦτ' ἔστιν, ἰδιωτικὴν ἐπαγάγοι τῷ ἐπισκόπῳ, ὡς πλεονεκτηθεῖς, ἢ ἄλλο τι παρὰ τὸ δίκαιον παρ' αὐτοῦ πεπονθώς· ἐπὶ τῶν τοιούτων κατηγοριῶν μὴ ἐξετάζεσθαι, μήτε πρόσωπον τοῦ κατηγοροῦν, μήτε τὴν θρησκείαν· χρὴ γὰρ παντὶ τρόπῳ τό, τε συνειδὼς τοῦ ἐπισκόπου ἐλεύθερον εἶναι, καὶ τὸν ἀδικεῖσθαι λέγοντα, οἷας ἂν ὃ θρησκείας, τῶν δικαίων τυγχάνειν· εἰ δὲ ἐκκλησιαστικὸν εἴη τὸ ἐπιφερόμενον ἐγκλημα τῷ ἐπισκόπῳ, τότε δοκιμάζεσθαι χρὴ τῶν κατηγορούντων τὰ πρόσωπα· ἵνα πρῶτον μὲν αἰρετικοῖς μὴ ἐξῇ κατηγορίας κατὰ τῶν ὀρθοδόξων ἐπισκόπων ὑπὲρ ἐκκλησιαστικῶν πραγμάτων ποιέσθαι· . . ἔπειτα δὲ καὶ εἰ τινες ἀπὸ τῆς ἐκκλησίας ἐπὶ αἰτίαις τισὶ προκατεγνωσμένοι εἴεν καὶ ἀποβεβλημένοι, ἢ ἀκωνώητοι, εἴτε ἀπὸ κλήρου, εἴτε ἀπὸ λαϊκοῦ τάγματος· μηδὲ τούτοις εἰσεῖναι κατηγορεῖν ἐπισκόπου, πρὶν ἂν τὸ οἰκίον ἐγκλημα πρότερον ἀποδύσωνται.

made satisfaction for their own crimes. Gothofred indeed questions whether there be any law in the Theodosian Code which thus unqualifies heretics from giving evidence: for though there be a law of Valentinian's twice repeated^b in two distinct titles, declaring the proper qualifications of witnesses, yet he thinks in both places it is to be understood of apostates only, and not of heretics. But it is certain in Justinian's Codeⁱ this same law is applied to heretics, rendering them incapable of giving evidence. And Justinian made two laws of his own to confirm this sense of the ancient law. In one of which^k he says, "That whereas the judges were at some doubt, whether they should admit the testimony of heretics in determining causes, he thus resolved the matter for their instruction: that where a Catholic was concerned in any dispute, neither heretic nor Jew should be allowed to give evidence, whether both parties were Catholics, or only one. But in such causes as Jews or heretics had between themselves, the testimony of either might indifferently be admitted, as fit witnesses for such disputers: yet with an exception to all those who were of the mad sect of the Manichees, of which the Borboritæ were a part, and all who still followed the Pagan superstition; also all Samaritans, and Montanists, and Tascodrogitæ and Ophitæ, who differed not much from the Samaritans in the likeness of

^b Cod. Theod. lib. xi. tit. xxxix. de fide testium, leg. xi. (Lugdun. 1665. vol. iv. p. 332.) Hi qui sanctam fidem prodiderint, et sacrum baptismum profanarint, a consortio omnium segregati, sint a testimoniis alieni, &c. Idem repetitur lib. xvi. tit. vii. de apostatis, leg. iv.

ⁱ Cod. Justin. lib. i. tit. vii. de Apostatis, leg. iii. Hi, qui sanctam fidem prodiderunt, et sanctum baptismum hæretica superstitione profanarunt, a consortio omnium segregati, sint a testimoniis alieni. (Corp. Jur. Civil. 1683.)

^k Cod. Justin. lib. i. tit. v. de Hæreticis, leg. xxi. Quoniam multi iudices in dirimendis litigiis nos interpellaverunt, nostro indigentes oraculo, ut eis reseretur, quid de testibus hæreticis statuendum sit, utrumne accipiantur eorum testimonia, an respuantur; sancimus, contra orthodoxos quidem litigantes nemini hæretico, vel his etiam qui Judaicam superstitionem colunt, esse in testimonia communionem; sive utraque pars orthodoxa sit, sive altera. Inter se autem hæreticis vel Judæis, ubi litigandum existimaverint, concedimus foedus permixtum, et dignos litigatoribus etiam testes introducere: exceptis scilicet his, quos vel Manichaicus furor, (cujus partem et Borboritas esse manifestum est,) vel pagana superstitio detinet: Samaritis nihilo minus, et qui illis non absimiles sunt, Montanistis et Tascodrogitis et Ophitis; quibus pro reatus similitudine omnis legitimus actus interdictus est. (Amstel. 1663.)

their guilt;" all such are prohibited universally either to give testimony, or to prosecute any action at law. And he mentions and confirms this decree in one of his Novels¹ also. But whether Justinian was the first that made this law in the state against heretics, as Gothofred would have it, or not, is not very material: it is certain there was such a rule in the Church long before. For St. Austin pleads it in behalf of one of his own presbyters,^m Secundinus of Germanicia, a place in his diocese: "Against a Catholic presbyter we neither can nor ought to admit the accusations of heretics." And so he says again, in the case of Cæcilian, Bishop of Carthage, whom the Donatists accused of many crimes, "Neither piety, nor charity, nor truth,ⁿ will allow the testimony of those men against him, whom we see to be out of the Church." And long before him, Athanasius^o pleaded the same in his own behalf: when he was accused for suffering Macarius, one of his presbyters, to break the communion-cup, he urged that his accusers were Meletians, who ought not to be credited, being schismatics, and enemies both to him and the Church. A great many such rules are collected by Gratian^p out of the epistles of the ancient popes, which though they be spurious, yet they are founded upon this known practice of the Church, that the testimony of an heretic was not to be received against a Catholic in an ecclesiastical cause, which we have seen fully evinced in the preceding allegations.

SECT. XII.—*Sixthly, Heretics not allowed to succeed to any paternal Inheritance.*

The other thing here to be observed is, that by the laws of

¹ Novell. xlv. c. i. Hæreticos perhibere testimonium prohibuimus, quando orthodoxi inter alterutros litigant.

^m Aug. Epist. ccxii. ad Pancarium. (vol. ii. p. 667.) Hæreticorum accusationes contra catholicum presbyterum admittere nec possumus, nec debemus.

ⁿ Aug. Epist. l. ad Bonifacium. (vol. ii. p. 491. B.) Ipsa pietas, veritas, caritas, non permittit contra Cæcilianum eorum hominum admittere testimonium, quos in ecclesia non videmus.

^o Athanas. Apol. ad Constant. (Coljon. 1686.) tom. i. p. 731. B. (p. 133, edit. Paris. 1698.) Μελετιανοὶ μὲν γὰρ εἰσιν οἱ κατηγοροῦντες, καθόλου πιστεύεσθαι μὴ ὀφείλουντες· σχισματικοὶ γὰρ καὶ ἐχθροὶ τῆς ἐκκλησίας γεγόνασιν.

^p Gratian. caus. iii. quæst. iv. et v.

the Church all men, or ecclesiastics at least, were obliged to discourage heresy by denying obstinate defenders of it such temporal benefits and privileges as it was in their power to deny them. Thus, for instance, the Council of Carthage^a forbids the bishops and clergy to confer any donations upon heretics, though they be of their kindred, either by gift or will. And the civil law gave force to this decree by rendering all heretics intestate, that is, incapable either of disposing of their own estates, or of receiving any benefit from the wills of others, as we have seen before (page 99. n. 6.) in speaking of the civil sanctions made against them.

SECT. XIII.—*Seventhly, No Heretic to have Promotion among the Clergy after his return to the Church.*

Another law of this kind was that which forbad the ordination of such, as were either baptized in heresy, or fell away after they had been baptized in catholic unity in the Church. They were allowed to be received as penitent laymen, but not to be promoted to any ecclesiastical dignity in any order of the clerical function. But this was a piece of discipline that might be insisted on, or dispensed with and waved, according as Church-governors in prudence thought most for the benefit and advantage of the Church. And therefore, though the Council of Eliberis^r and some others insist upon this rule, yet the Council of Nice dispensed with it in the case of the Novatians, and the African fathers in the case of the Donatists, to encourage those schismatics to return to the unity of the Church. But I only just mention this here, because I have more fully stated it on both sides upon other occasions in the preceding parts¹ of this work, to which the reader may have recourse.

^a Concil. Carth. III. c. xiii. Vide cod. African. c. xxii. Μηδὲν διὰ δωρεᾶς τῶν οἰκείων πραγμάτων, ὡς εἴρηται, τοὺς ἐπισκόπους ἢ κληρικοὺς τοῦτοις συνεισάγειν. (ii. 1059.)

^r Concil. Illiberit. c. li. (Labbé, vol. i. p. 976.) Ex omni hæresi fidelis si venerit, minime est ad clerum promovendus: vel si qui sunt in præteritum ordinati, sine dubio deponantur.

¹ Lib. iv. c. iii. § xii. and Scholastic Hist. of Bapt. part ii. chap. iv.

SECT. XIV.—*Eighthly, No one to be ordained who kept any in his family that were not of the Catholic Faith.*

And there I have also noted another rule, which relates to the matter now in hand ; which was, that no one should be ordained bishop, presbyter, or deacon, who had not first made all the members of his family catholic Christians. This is a rule we find in the third Council of Carthage,* where St. Austin was present : and there is no question but that it was chiefly designed against the Donatists, though it equally affects all heretics, and Jews, and Pagans, and all who secretly by connivance gave any encouragement to them ; it being thought absurd to promote those to the government of the Church, who had not zeal or interest enough to secure the practice of true religion within the walls of their own families. And the rule tending directly to discourage heresy, I therefore mention it here as a branch of the ancient discipline worthy our observation.

SECT. XV.—*No one to bring his Cause before an heretical Judge, under pain of excommunication.*

Neither can I pass over another rule of the fourth Council of Carthage, which forbids Catholics† to bring any cause, whether just or unjust, before an heretical judge, under pain of excommunication. This does not indeed deprive heretical judges of their office, or render their decisions null, when the state thinks fit to allow them, as it sometimes did under Constantius and Valens, and other heretical emperors. For the Church has no power in this case, which belongs to the civil, and not the ecclesiastical power, as has been shewed before.¹ But the Church had power to lay an injunction upon all her members, not to bring their causes before an heretical judge, by a just analogy to that rule of the Apostle, ‘not to go to law before the unbelievers.’ And this was one way to discounten-

* Concil. Carth. III. c. xviii. (Labbé, vol. ii. p. 1170.) Ut episcopi, presbyteri, et diaconi non ordinentur, priusquam omnes, qui sunt in domo eorum, Christianos Catholicos fecerint.

† Concil. Carth. IV. c. lxxxvii. Catholicus, qui causam suam, sive justam, sive injustam, ad iudicium alterius fidei iudicis provocat, excommunicetur. (ii. 1206.)

¹ Cap. ii. § v. vol. v. p. 456.)

ance heresy in men of the highest station : and for this reason we may suppose the Church enjoined it, to give a check to heretics, by obliging Catholics to end their controversies among themselves, and have no communication with heretics or unbelievers.

SECT. XVI.—*What Term of Penance imposed upon relenting Heretics.*

We have hitherto considered the punishments laid upon heretics continuing in their obstinacy and perverseness, and bidding defiance to the communion of the Church. We are now to view the Church's discipline and behaviour toward them, when they showed any disposition to relent and return to the unity of the faith. Now heresy being reckoned among the greatest of crimes, a proportionable term of penance was laid upon it. The Council of Eliberis^u appoints ten years' penance for such as went over from the catholic Church to any heresy, if ever they returned and made confession of their crime, before they should be admitted to communion. Only an exception is made in the case of infants, because their fault was not their own, but their parents'; therefore they are ordered to be received without any delay. The Council of Rome under Felix^x sets a more particular mark upon bishops, presbyters, and deacons, who suffered themselves to be rebaptized by heretics, because this was in effect to deny their Christianity, and own that they were Pagans. Such are denied Communion even among the catechumens all their lives, and only allowed lay communion at the hour of death. Others^y are enjoined the same penance as the Council of Nice puts upon lapsers, that is, twelve years, in the several stations of

^u Concil. Illiberrit. c. xxii. (Labbé, vol. i. p. 973.) Si quis de catholica ecclesia ad hæresin transitum fecerit, rursusque [ad ecclesiam] recurrerit decem annis agat poenitentiam: cui post decem annos præstari communicatio debet. Si vero infantes fuerint transducti, quod non suo vitio peccaverint, incunctanter recipi debent.

^x Concil. Roman. an. 487. c. ii. Ad exitus sui diem in poenitentia (si resipiscunt) jacere conveniet: nec orationi non modo fidelium, sed nec catechumenorum omnimodis interesse, quibus communicatio laica tantum in morte reddenda est.

^y Ibid. can. iii.

penitents, unless they had the plea of necessity or fear, or danger to excuse them. But if they were children,^z their ignorance and immaturity was a more reasonable plea to shorten their penance, and restore them more speedily to communion. The Council of Agde^a contracted this term of penance universally for all such lapsers into heresy, reducing it to the term of three years only. For though the ancient canons imposed a longer penance, yet they saw good reason to relax this severity, and make the conditions of reconciliation a little easier. The Council of Epone^b repeats and confirms this decree, with a little various reading of one clause, which reduces the term of penance to two years only.

SECT. XVII.—*How this varied according to the Age and State and Condition of several Sorts of Heretics.*

It appears from some of the fore-mentioned canons, that a great difference was made in the term of penance imposed upon heretics, with respect to the age of the offenders. Children were more favourably dealt with, by reason of their ignorance and want of mature judgment, than adult persons. And we may observe the same difference made in many other cases of the like nature. They who were baptized and educated in the Catholic faith, were more severely treated, if after that they deserted the Church and fell into heresy, and especially such heresies as required them to take a new baptism. The aforesaid canons chiefly respect deserters; and particularly that of Felix in the Roman council, such as were rebaptized in heresy: concerning which both the civil and ecclesiastical laws speak with great indignation and severity; the one confiscating the goods of all rebaptizers, and banishing their per-

^z Ibid. can. iv. Pueris autem, quibus ignorantia suffragatur ætatis, aliquandiu sub manus impositione detentis, reddenda communio est: nec eorum expectanda pœnitentia, quos excipit a coërcitione censura.

^a Concil. Agath. can. lx. (Labbé, vol. iv. p. 1392.) Lapsis, id est, qui in catholica fide baptizati sunt, si prævaricatione damnabili post in hæresin transierint, grandem redeundi difficultatem sanxit antiquitas. Quibus nos, annorum multitudine breviata, pœnitentiam biennii imponimus, ut præscripto biennio, tertio sine relaxatione jejurent, et ecclesiam studeant frequentare, &c.

^b Concil. Epæon. c. xxix. Præscripto biennio tertia die sine relaxatione jejurent, &c. (Labbé, vol. iv. p. 1579.)

sons; and the other requiring the rebaptized to go through a long course of penance in order to their re-admission to the communion of the Church again; of which the reader may find a more ample account in a former book,¹ under the proper title of re-baptization. Whereas they that were born and bred and baptized originally among heretics, had more favourable allowances made them, with respect to their difficult circumstances, and great prejudices naturally arising thence. This is expressly said by St. Austin^c in one of his epistles to a Donatist bishop: "The Church has one way of treating those who desert her, if ever they repent; and another way of treating those who were never before in her bosom, till they come to beg her peace: she humbles the former by a severer discipline; but receives the latter more gently, loving both, and ministering to the cure of both with the charity and affection of a mother." So again, in his book of One Baptism^d against Petilian, we observe this distinction, "to humble those who were once in the catholic church, and afterward desert it, with a severer penance than those who were never in it. Neither do we admit them into the clergy, whether they were rebaptized by them, or run over to them, or were clergymen or laymen among them." This distinction was particularly observed by the African synods with relation to such persons as were baptized in their infancy among the Donatists. In the Council of Carthage, an. 397, which is inserted into the African Code,^e a proposal was made that such as had been

¹ Lib. xii. cap. v. § vii. vol. iv. p. 68.

^c August. Epist. xviii. p. 73. (tom. ii. Opp. p. 191, edit. Basil. 1559.) (1700. vol. ii. p. 191. D 8.) *Ecclesia aliter tractat illos, qui eam deserunt, si hoc ipsum poenitendo corrigant; aliter illos, qui in ea nondum fuerunt, et tunc primum ejus pacem accipiunt: illos amplius humiliando, istos lenius suscipiendo, utrosque diligendo, utrisque sanandis materna caritate serviendo.*

^d Aug. de unico Baptism. c. xii. (1700. vol. ix. p. 365. E 8.) *Nec illud sine distinctione præterimus, ut humiliorem agant poenitentiam, qui jam fideles ecclesiam catholicam deseruerunt, quam qui in illa nondum fuerunt. Nec ad clericatum admittuntur, sive ab hæreticis rebaptizati sint, sive prius suscepti ad illos redierint, sive apud illos clerici vel laici fuerint.*

^e Cod. Afric. c. xlvii. (Labbé, vol. ii. p. 1071.) *Ἦρεσεν, ἵνα ἐρωτήσωμεν τοὺς ἀδελφοὺς καὶ συννεῖς ἡμῶν Συρίκιον καὶ Συμπλικιανὸν περὶ μόνων τῶν νηπιῶν, τῶν παρὰ τοῖς Δονατισταῖς βαπτιζομένων, μήπως τοῦτο, ὅπερ οἰκεία προθέσει οὐκ ἐποίησαν, τῇ τῶν γονέων πλάνῃ ἐμποδίσῃ αὐτοῖς πρὸς τὸ μὴ*

baptized among the Donatists in their infancy, by their parents' fault, without their own knowledge and consent, should upon their return to the Church be allowed the privilege of ordination : and in the next council ^f the proposal was accepted, and a decree passed accordingly in favour of them. The Council of Nice ^g granted the same indulgence to the Novatian clergy : but we rarely find any of those who deserted the Church in which they had been baptized, allowed this privilege, the laws being more peremptory against them, to debar them from all clerical dignity, and only receive them as private Christians to lay communion.

SECT. XVIII.—*Heresiarchs more severely treated than their followers.*

Yet considerations of prudence sometimes obliged the Church to dispense with those laws also, and receive even deserters, in some cases, to clerical dignity again ; of which I have given some instances in a former book.¹ But then she always set a mark of infamy upon heresiarchs, or first founders of heresy, making a distinction between them and those that followed them ; allowing the one sometimes to continue in the clerical function upon their repentance, but commonly degrading the other without hopes of restitution. St. Austin takes notice of this difference in the case of the Donatists : he says,^h

προκόπτειν εἰς ὑπουργίαν τοῦ ἁγίου θυσιαστηρίου, ὅταν πρὸς τὴν τοῦ Θεοῦ ἐκκλησίαν προθέσει ἐπιστρέψωσι.

^f Ibid. c. lvii. (p. 1083.) Ἐπειδὴ ἐν τῇ ἀνωτέρα συνόδῳ ὀρισθὲν μέμνηται ἅμα ἔμοι ἡ ἡμετέρα ὁμοφυχία, ὥστε τοὺς παρὰ τοῖς Δονατισταῖς μικροὺς βαπτιζομένους, μηδέπω δυναμένους γινώσκειν τῆς πλάνης αὐτῶν τὸν ὄλεθρον, μετὰ τὸ εἰς κείραν λογισμοῦ δεκτικὴν παραγενέσθαι, ἐπιγνωσθεῖσης τῆς ἀληθείας, τὴν φανλόττητα ἐκείνων βδελυττομένους πρὸς τὴν καθολικὴν τοῦ Θεοῦ ἐκκλησίαν τὴν ἀνὰ πάντα τὸν κόσμον διακεχυμένην, τάξει ἀρχαία διὰ τῆς ἐπιθέσεως τῆς χειρὸς ἀναδεχθῆναι, τοὺς τοιοῦτους ἐκ τοῦ τῆς πλάνης ὀνόματος μὴ ὀφείλιν ἐμποδίζεσθαι εἰς τὰς κληρώσεις, ὅποταν τὴν ἀληθινὴν ἐκκλησίαν ἰδίαν ἑαυτῶν ἰλογίσαντο, τῇ πίστει προσερχόμενοι, καὶ ἐν αὐτῇ τῷ Χριστῷ πιστεύσαντες, τῆς τριάδος τὰ ἁγιάσματα ὑπεδέξαντο.

^g Concil. Nic. can. viii. (Labbé, vol. ii. p. 32.) Περὶ τῶν ὀνομαζόντων μὲν ἑαυτοὺς καθαρούς ποτε, προσερχομένων δὲ τῇ καθολικῇ ἐκκλησίᾳ, ἔδοξε τῇ ἁγίᾳ καὶ μεγάλῃ συνόδῳ, ὥστε χειροθετούμενους μένειν οὕτως ἐν τῇ κλήρῳ.

¹ Lib. iv. cap. vii. § vii. viii. vol. i.

^h Aug. Epist. l. ad Bonifac. p. 87. (p. 228, edit. Basil. 1569.) (1700. vol. ii.

"The Church of Africk observed this moderation from the beginning toward them, according to the decree made by those in the Roman Church, who were appointed to judge and decide the dispute between Cæcilian and the party of Donatus : they condemned only Donatus, who was proved to be the author of the schism ; but ordered the rest to be received in their clerical honours upon their repentance, although they were ordained out of the catholic Church."

SECT. XIX.—*And voluntary Deserters more severely than they who complied only out of fear.*

Another distinction was made, as in the case of lapsers into idolatry, between such heretics as voluntarily deserted the Church out of choice, and those who complied with heretical errors only by force and compulsion, being terrified into them by the violence of some persecution. In this latter case, bishops were allowed to moderate their penance, as the circumstances of the matter seemed to require :—as appears from the direction¹ given by Pope Leo to the Bishop of Aquileia, concerning the penance of such as were compelled, by fear and violence offered to them by certain heretics, to submit to a second baptism : they were to be put under penance, he says, for some time ; but a moderation was to be used in the term of it, according to the bishop's discretion.

p. 503. E.) Hoc erga istos ab initio servavit Africana catholica, ex episcoporum sententia, qui in ecclesia Romana inter Cæcilianum et partem Donati judicaverunt; damnatoque uno quodam Donato, qui auctor schismatis fuisse manifestatus est, ceteros correctos etiamsi extra ecclesiam ordinati essent, in suis honoribus suscipiendos esse censuerunt.

¹ Leo, Epist. lxxix. ad Nicetam, c. vi. (Labbé, vol. iii. p. 1372.) Qui ad iterandum baptismum vel metu coacti sunt vel errore traducti, et nunc se contra catholicæ fidei sacramentum egisse cognoscunt, ea custodienda est moderatio, qua in societatem nostram non nisi per pœnitentiæ remedium, et per impositionem episcopalis manus, communionis recipiant unitatem ; temporis pœnitudinis, habita moderatione, tuo constituyente judicio, prout conversorum animos perspexeris esse devotos, &c.

SECT. XX.—*A Difference made between such Heretics as retained the Form of Baptism, and such as rejected or corrupted it*

Another difference was made between such heretics as retained the due form of baptism, and those who wholly rejected it, or corrupted it in any essential part. The former were to be received only by imposition of hands, confessing their error, as having received a true baptism, though out of the Church before; but the other were to be received only as heathens, having never been truly baptized, and therefore were obliged to receive a new baptism to make them members of the Church. Of which, because I have given a full account elsewhere,¹ I need say no more in this place.

SECT. XXI.—*No one to be reputed a formal Heretic, before he contumaciously resisted the Admonition of the Church.*

Finally, they made some distinction between such heretics as contumaciously resisted the admonitions of the Church, and such as never had any admonition given them, or amended quietly upon the first admonition. Men might entertain very dangerous errors; but till the Church had given them a first and second admonition, according to the Apostle's rule, they were not reputed formal heretics, nor treated as such, till they joined contumacy to their error. St. Austin^{*} puts the case thus “between two men, who are equally involved in the

¹ Lib. xi. cap. ii. et iii. vol. iii. p. 411, seqq. Et Scholast. Hist. of Bapt. part i. chap. i. n. 20, &c.

^{*} Aug. de Bapt. lib. iv. c. xvi. (1700. ix. 91. B.) Constituamus duos aliquos, unum eorum, verbi gratia, id sentire de Christo, quod Photinus opinatus est, et in ejus hæresi baptizari extra ecclesiæ catholicæ communionem: alium vero hoc idem sentire, sed in catholica baptizari, existimantem ipsam esse catholicam fidem. Istum nondum hæreticum dico, nisi manifestata sibi doctrina catholicæ fidei resistere maluerit, et illud, quod tenebat, elegerit; quod antequam fiat, manifestum est illum, qui foris baptizatus est, esse pejorem. . . . Quod si quisquam idem sentiat quod illi, et esse noverit hæresin, ab unitate catholica separatam, ubi hoc docetur et discitur, sed alicujus sæcularis emolumenti causa in catholica unitate baptizari voluerit, vel in ea baptizatus propter hoc exire inde noluerit: non solum separatus habendus est, verum etiam tanto sceleratius, quanto magis errori hæresis et divisioni unitatis fallaciam simulationis adjungit,

error of Photinianism, denying the divinity of Christ ; but the one is baptized in heresy, out of the communion of the catholic Church ; the other is baptized in the catholic Church, having the same error, which he believes to be the catholic faith : I do not yet call this man a heretic, unless when the doctrine of the catholic faith is declared to him, he chooses rather to resist it, and hold to his former opinion : before he does this, he that is baptized out of the Church, is plainly the worse of the two. But that man is worse than both the former, who knowing this opinion, which he holds, only to be taught among heretics divided from the Church, yet for some secular end and advantage chooses to be baptized in the Church, and continue in it after baptism: this man is not only to be accounted a Separatist, but so much the more wicked one for adding heresy to his error, and dissimulation and hypocrisy to the division of the faith." In another place¹ he says, " They are properly heretics, who when they are reprov'd for their unsound opinions, contumaciously resist ; and instead of correcting their pernicious and damnable doctrines, persist in the defence of them, and leave the Church, and become her enemies.—But they who^m defend not their opinion, though false and perverse, with any pertinacious animosity, especially if they were not the first broachers of it, but received it from the seduction of their parents, and were careful in their inquiries after truth, being ready to embrace it when they found it ; they were not to be reckoned among heretics." And with much stronger reason, we have heard himⁿ say before, " That a man who in extreme necessity received baptism from heretics, when he could not have a catholic to administer it to him, was

¹ Aug. de Civit. Dei, lib. xviii. c. li. (vol. vii. p. 403. E 7.) Qui in ecclesia Christi morbidum aliquid pravumque sapiunt, si correpti, ut sanum rectumque sapiant, resistunt contumaciter, suaque pestifera et mortifera dogmata emendare nolunt, sed defensare persistunt ; hæretici fiunt, et foras exeuntes habentur in exercen-
tibus inimicis.

^m Aug. Epist. clxii. p. 277. (vol. ii. p. 67. C.) Qui sententiam suam, quamvis falsam atque perversam, nulla pertinaci animositate defendunt, et præsertim quam non audacia præsumtionis suæ pepererunt, sed a seductis et in errorem lapsis parentibus acceperunt, quærunt autem cauta sollicitudine veritatem, corrigi parati ; quum invenerint, nequaquam sunt inter hæreticos deputandi.

ⁿ Aug. de Bapt. lib. i. c. ii. lib. vi. c. v. lib. vii. c. lii. cit. cap. i. § iv. Bing-
ham's Works, vol. v. p. 386.

in no fault, because his mind and will was still united to the catholic Church." From all which it is easy to discern how great a difference they made in the degrees of heresy and its guilt, and how the discipline of the Church was managed, in a great measure, according to these distinctions.

SECT. XXII.—*The like Distinctions observed in inflicting the Censures of the Church upon Schismatics, according to the different Nature and various Degrees of their Schism.*

I have already¹ showed that a like discrimination was made between schismatics of different kinds; and that the censures of the Church were inflicted on them only in proportion to the quality of their offence, observing the different nature and various degrees of their separation or schism. Some only absented from Church for a short time, suppose two or three Lord's-Days successively, without any justifiable reason for it: and it was thought sufficient to correct such by a moderate punishment of as many weeks' suspension. Others attended some part of the service, suppose the sermon, and the psalmody, and the first prayers for the catechumens; but then withdrew, as if they had been penitents, when the service of the faithful or the communion-office came on, and the Eucharist was to be offered and received by all that were not for some fault excluded from it: and these, as greater criminals, were denied the privilege of making any oblations, and excluded for some time from all other holy offices of the Church. A third sort of separatists, which are most properly called schismatics, were such as withdrew totally and universally from the communion of the Church; pretending that her communion was polluted and profane by the mixture of sinners; or finding out other such reasons to charge her with sinful terms of communion, and justify their own separation by many the like pretences, of which the history of the Novatians and Donatists affords many instances. Now against these the Church commonly proceeded more severely, using the highest censure of excommunication or anathema, as against more professed and formal schismatics, and destroyers of that inviolable unity

¹ Book xvi. chap. i. § 14. vol. v. p. 555.

and peace which ought to be most sacredly preserved in the body of Christ. Of all which schismatics and their punishments, because I have spoken particularly before in discoursing of the unity of the Church, I need say no more in this place, but proceed to another crime, that of sacrilege, which comes next in order to be considered.

SECT. XXIII.—*Of Sacrilege : particularly of diverting things appropriated to sacred uses, to other purposes.*

The Roman casuists^o are wont to call many things sacrilege, which the ancients reckoned no crimes at all : as the laying taxes or tribute upon ecclesiastics by the civil power, without the consent of the pope, for which secular princes are excommunicated by the famous bull in Coena Domini, as they call it ; and the bringing ecclesiastical persons for any crime before the secular tribunals. Some other things they brand with the odious name of sacrilege, which many of the ancients reckoned to be virtues, and instances of zeal and piety towards God : as the removing of images out of all places of divine worship ; for which the Council of Eliberis, and Epiphanius, and many others, were so remarkable in ancient history, who yet, if we were to speak in the style and language of these modern casuists, were to be reckoned guilty of the horrid sin of sacrilege. Since therefore the matter stood thus, we are not to expect to find any punishments in the penitential discipline of the ancient Church, allotted to such mere pretended crimes and imaginary vices. But against real sacrilege, none could be more zealous than the ancients : particularly against diverting any thing to private use, which was given to the public service of the Church. “ If any one,” say the Apostolical Canons,^p “ either of the clergy or laity take wax or oil out of the Church, let him be cast out of communion, and make restitution with the addition of a fifth part.” And again,^q

^o Vid. Lessius de Jure et Justit. lib. ii. c. xlv. dubitat. iii. et iv.

^p Can. Apost. c. lxxi. (Labbé, vol. i. p. 41.) Ἐἰ τις κληρικὸς, ἢ λαϊκὸς, ἀπὸ τῆς ἀγίας ἐκκλησίας ἀφέλῃται κηρὸν, ἢ ἔλαιον, ἀφοριζέσθω, [καὶ τὸ ἐπίπεμπτον προστιθέτω, μεθ’ οὗ ἔλαβεν.]

^q Can. Apost. c. lxxii. (Labbé, vol. i. p. 41.) Σκεῦος ἀργυροῦ, ἢ χρυσοῦ, ἢ ὀθόνης, ἀγιασθὲν, μηδεὶς ἐτι εἰς οἰκίαν χρῆσιν σφετεριζέσθω· παράνομον γάρ· εἰ δὲ τις φωραθῇ, ἐπιτιμᾶσθω ἀφορισμῷ. (Cotelier. vol. i. p. 451.)

“ Let no one divert to his own use any of the sacred utensils of gold, or silver, or linen : for it is a flagitious thing ; and if any one be apprehended so doing, let him be excommunicated.” So likewise in the fourth Council of Carthage, “ Let those^r who deny the Church such oblations as are given by the dead, or give them not without difficulty, be excommunicated as murderers of the poor.” And the second^s Council of Vaison, “ They who detain the oblations, and refuse to give them to the Church, are to be cast out of the Church as infidels ; for such a provocation of God is a denying of the faith : both the faithful, who are gone out of the body, are defrauded of the plenitude of their vows ; and the poor also, of the comfort of their food and necessary subsistence. Such are to be esteemed murderers of the poor, and infidels with respect to the judgment of God.” Whence one of the fathers says, “ To take from a friend is theft, but to defraud the Church is sacrilege.” This is cited from St. Jerom. And St. Ambrose^t goes a little farther, and says, “ They who give their own estates to the Church, and then in a fickle humour retract, and revoke them again, like Ananias and Sapphira, lose the reward both of their first and second action : the first act is void of judgment ; and the second is downright sacrilege.” Therefore, whether a man retracted what he himself had given to the Church, or detained what was given by others, or robbed her of what she was actually possessed of, it was all the same species of sacri-

^r Concil. Carthag. IV. c. xcvi. (Labbé, vol. ii. p. 1207.) Qui oblationes defunctorum aut negant ecclesiis, aut cum difficultate reddunt, tamquam egentium necatores, excommunicentur.

^s Concil. Vasens. II. c. iv. (Labbé, vol. iii. p. 1457.) Qui oblationes defunctorum fidelium detinent, et ecclesiis tradere demorantur, ut infideles sunt ab ecclesia abjiciendi : quia usque ad exinanitionem fidei pervenire certum est hanc pietatis divinæ exacerbationem : qua et fideles de corpore recedentes fraudantur votorum suorum plenitudine, et pauperes necessaria sustentatione fraudantur. Hi enim tales, quasi egentium necatores, nec credentes judicium Dei, habendi sunt. Unde et quidam patrum ait : Amico quidpiam rapere, furtum est ; ecclesiam fraudare, sacrilegium.

^t Ambros. de Poenit. lib. ii. c. ix. (Paris. 1836. vol. iv. p. 115.) Sunt qui opes suas tumultuario mentis impulsu, non judicio perpetuo, ubi ecclesiæ contulerunt, postea revocandas putarunt : quibus nec prima merces rata est, nec secunda ; quia nec prima judicium habuit, et secunda habuit sacrilegium.

lege, and the canons^u equally punish them all with the same sentence of excommunication; reducing clergymen, when found guilty of this crime, to the communion of strangers, which was a punishment peculiar to them; of which more hereafter. I have already showed, in a former book,¹ that for this reason bishops who were entrusted with the goods and revenues of the Church, were not allowed to alienate any part of them, except it were in great necessity, to relieve the poor, or redeem captives; in which case St. Ambrose himself, and many others, disposed of the plate of the altar, and the vessels and utensils belonging to the Church; thinking it better that the inanimate temples of God should want their ornaments, than that his living temples should perish for want of relief.—This was not sacrilege in the eye of the law, either ecclesiastical or civil, but an act of mercy allowed by both: for the laws against sacrilege, next to the honour of God, had always a view to the necessities of the poor: and therefore as this practice tended to relieve them in great exigencies, it was just the reverse of that inhuman sacrilege which the ancients called ‘murdering the poor,’ against which so many severe laws were made to abolish and correct it.

SECT. XXIV.—*Of Sacrilege committed in robbing of Graves.*

Another great crime of near akin to the former, which was sometimes condemned and punished under the name of sacrilege, was robbing of graves, or defacing and spoiling the monuments of the dead. These were always esteemed a sort of

^u Vide Concil. Agath. c. iv. (Labbé, vol. iv. p. 1383.) Clerici, vel sæculares, qui oblationes parentum, aut donatas, aut testamentis relictas, retinere perstiterint, aut id, quod ipsi donaverint ecclesiis, vel monasteriis, crediderint auferendum, sicut synodus sancta constituit, velut necatores pauperum, quousque reddant, ab ecclesiis excludantur. Can. v. Si quis clericus furtum ecclesiæ fecerit, peregrina ei communicatio tribuatur. Can. vi. Pontifices vero, quibus, in summo sacerdotio constitutis, ab extraneis duntaxat, aliquid, aut cum ecclesia, aut sequestratum, aut dimittitur aut donatur, quia hoc ille, qui donat pro redemptione animæ suæ, non pro commodo sacerdotis probatur offerre; non quasi suum proprium, sed quasi dimissum ecclesiæ, inter facultates ecclesiæ computabunt: quia justum est, ut sicut sacerdos habet, quod ecclesiæ dimissum est, ita et ecclesia habeat, quod relinquitur sacerdoti.

¹ Lib. v. c. vi. § vi. vii. vol. ii. p. 93.

sacred repositories and inviolable sanctuaries even by the very heathen, as appears from the edict of Julian,^x and what Gothofred^y has collected at large out of the old laws and heathen writers upon the subject. And the violation of them was always esteemed a piacular crime, and sometimes punished with death. The imperial laws made it capital: and therefore when the Christian emperors at Easter granted their indulgence or pardon to criminals in prison, they still excepted robbers of graves^z among those other flagitious criminals which were to have no benefit from their indulgence, as has been showed before¹ in speaking of those called 'Atrocia Crimina,' great and capital crimes. That which tempted men to commit this wickedness was, that often riches and jewels were buried with the dead; and fine marble pillars and statues, ornaments and monuments, were erected over their graves; all which became spoil and plunder to such as were impiously and sacrilegiously disposed to invade them. Now as the imperial laws prosecuted such criminals with suitable punishments, fines, tortures, transportation, and death; so the ecclesiastical laws pursued them with spiritual penalties, agreeable to her spiritual regimen and jurisdiction. Gregory Nyssen^a says, "The holy fathers teach us to place the violation of burial-places among those sins which are to be expiated by public penance." But he distinguishes two degrees of this crime; the one punishable by ecclesiastical censure; the other not so. For if any one

^x Cod. Theod. lib. ix. tit. xvii. de Sepulchris violatis, leg. v. Pergit audacia ab busta diem functorum, et aggeres consecratos: quum et lapidem hinc movere, terram sollicitare, et cespitem vellere, proximum sacrilegio Majores semper habuerint. (Vol. iii. p. 144.)

^y Gothofred. in leg. ii. ibid.

^z Cod. Theod. de Indulgentiis Criminum, lib. ix. tit. xxxviii. leg. iii. iv. vii. viii. cit. cap. iv. § ii. sub litt. (c) (d) (e) p. 2, 3.—Valent. novell. v. de Sepulchr. ad calcem Cod. Theodos. p. 22. b. tot.

¹ Vide c. iv. § ii. vol. vi. p. 2.

^a Nyssen. Epist. canon. ad Letoium, c. vi. et vii. (Paris. 1615. vol. i. p. 954. C 1.) Ἡ δὲ τυμβωρυχία, καὶ αὐτὴ διήρηται εἰς τὸ σύγγνωστον τε καὶ ἀσύγνωστον· εἰ μὲν γὰρ τις τῆς οὐσίας φειδόμενος, καὶ ἀσυλον ἀφείς τὸ κεκρυμμένον σῶμα, ὡς μὴ ἀναδειχθῆναι ἢ λίψ τὴν ἀσχημοσύνην τῆς φύσεως, λίθοις τισὶ τῶν ἐν τῷ τάφῳ προβεβλημένων συγχωρήσαιο εἰς ἔργον τινὸς κατασκευῆν· ἐπαίνετον μὲν οὐδὲ τοῦτό ἐστιν· ἀλλὰ σύγγνωστον ἐποίησεν ἢ συνήθεια, ὅταν εἰς προτιμότερόν τι καὶ κοινωφελέστερον ἢ τῆς ὕλης μετὰθεσις γίνηται.

took the stones or materials, which are usually cast up before the burial-places of the dead, and applied them to some other useful purpose, without exposing the corpse to the air or light, or offering any abuse or injury to it; though this was not commendable or allowable; (for indeed the civil laws absolutely forbade^b it, as was said before;) yet custom, however, exempted this from any public punishment in the Church, because there was some benefit in it by an application of the materials to a more useful purpose; and, as Gothofred^c also observes, there was something of seeming zeal in it, to demolish the heathen altars and images, which were often erected at the graves of pagans. But then, as Gregory adds,¹ there was another degree of this crime which was more horrible, when men raked into the ashes of the dead, and disturbed their bones, in pursuit of treasure, clothes, or other ornaments, that might be buried with them: and this, he says, was punished with the same term of penance as simple fornication,

^b Cod. Theod. lib. ix. tit. xvii. (Paris. 1665. vol. iii. p. 137.) de Sepulchris violatis, leg. i. Si quis in demoliendis sepulchris fuerit adprehensus, si id sine domini conscientia faciat, metallo adjudicetur: si vero domini auctoritate vel jussione urgetur, relegatione plectatur. Leg. ii. Factum, solitum sanguine vindicari, multæ inflictione corrigimus: atque ita supplicium statuimus in futurum, ut nec ille absit a poena, qui ante commisit. Universi itaque, qui de monumentis columnas vel marmora abstulerunt, vel coquendæ calcis gratia lapides dejecerunt, ex consulatu scilicet Dalmatii et Zenophili, singulas libras auri per singula sepulchra fisci rationibus inferant, etc. Leg. iii. Quosdam comperimus, luci nimium cupidos, sepulchra subvertere et substantiam fabricandi ad proprias sedes transferre, hi detecto scelere animadversionem priscis legibus definitam subire debebunt.

^c Gothofr. in leg. v. ibid. p. 145. Antiocheni Christiani non modo ornatum sepulchrorum minuebant, ex porticibus et tricliniis sepulchralibus columnas et marmora ad sedificia sua transferentes, verum etiam sepulchra dissipabant, terra sollicitata, cespite vulso, titulis etiam procul dubio erasis, staturisque et aris detractis. Fuit hæc scilicet Christianorum, invalescente Christiana religione, ut in templis, ita et sepulchris evertendis, ut Julianus vocare voluit, ‘audacia,’ sive potius zelus; qui si remissior fuisset, tituli saltem stetissent, cadavera ipsa non inquietarentur: et hoc fine stetisset superstitionis eversio, bonum factum pronuntiarent omnes: sed ita exigere visa sunt tempora: et nec quicquam, id est, frustra a Christianis ante Julianum imperatoribus, civilibus de causis, a Juliano vero religionis majorum amore, ut hoc edicto satis indicat, repressum.

¹ Gregor. Nyssen. l. c. Τὸ δὲ διερευνᾶσθαι τὴν κόνιν ἀπὸ τῆς γαιωθεΐσης σαρκός, καὶ ἀνακινεῖν τὰ ὅστ᾽ αἱ, ἐλπίδι τοῦ κόσμον τινὰ τῶν συγκατορυθέντων κερδᾶναι, τοῦτο τῷ αὐτῷ κρίματι κατεδικάσθη, ὡς καὶ ἡ ψαλμὴ πορνεία, κ. τ. λ.

that is, nine years in the several stations of repentance. The fourth council of Toledo^d makes it a double punishment for any clergyman to be guilty of this crime: "If any clerk is apprehended demolishing sepulchres, for as much as this is a crime punishable with death by the public laws, he ought by the canons to be deposed from his orders, and after that do three years' penance for such his transgression." The reader that pleases may see elegant invectives against this crime in Sidonius Apollinaris^e and St. Chrysostom;^f who justly represent it as one of the most unnatural and inhuman barbarities that can be offered to the nature of man, because the dead are altogether innocent and passive, and in a condition to excite pity and compassion only, being destitute and without ability to resist or right themselves against invaders.

SECT. XXV.—*The Sacrilege of the ancient Traditors, who delivered up their Bibles and holy Utensils to the Heathen to be burnt.*

Another sort of men, who were anciently accused and condemned as sacrilegious persons, were those whom they commonly called Traditors, for delivering up their Bibles, and other sacred utensils of the Church, to the heathen to be burnt, in the time of the Diocletian persecution. The first Council of Arles,^g held immediately after the persecution, makes it deposition from his order for any clergyman who could be convicted by the public Acts of this crime, either of betraying the Scriptures, or any of the holy vessels, or the names of his brethren, to the persecutors. The Donatists frequently but falsely objected this crime to Cæcilian, Bishop of Carthage, and those that ordained him, that they were Tra-

^d Concil. Toletan. IV. c. xlvi. (Labbé, vol. v. p. 1717.) Si quis clericus in demoliendis sepulchris fuerit deprehensus, quia facinus hoc pro sacrilegio legibus publicis sanguine vindicatur: oportet canonibus in tali scelere proditum, clericatus ordine submoveri, et penitentiae triennio deputari.

^e Sidon. lib. iii. epist. xii. fere tot.

^f Chrysost. Homil. xxxv. in 1 Cor. vi. p. 6. (p. 396, tot. edit. Francof.)

^g Concil. Arelat. I. c. xiii. (Labbé, vol. i. p. 1428.) De his qui Scripturas sanctas tradidisse dicuntur, vel vasa Dominica, vel nomina fratrum suorum, placuit nobis, ut quicumque eorum ex actis publicis fuerit detectus; non verbis nudis, ab ordine cleri amoveatur.

ditors: upon which St. Austin^h tells them, that if they could evidently make good the charge, the Catholics would not scruple to anathematize them after death. But the truth of the matter was, these very objectors were traditors themselves, though they had the impudence to absolve one another, while they threw the charge upon innocent men: as Optatusⁱ and St. Austin^k show out of the acts of their own Council of Cirta, where they acted this comedy, which stood as a witness against them.

SECT. XXVI.—*The Sacrilege of Profaning the Sacraments, and Churches, and Altars, and the Holy Scriptures, &c.*

Neither was this the only sacrilege the Donatists were guilty of, but they and their accomplices stand charged with many others. Optatus objects^l to them their breaking and burning

^h Aug. Epist. l. ad Bonifac. (p. 208, fin. et 209, edit. Basil. 1569. (Bened. 1700. vol. ii. p. 490. E.) Testimoniis divinis lites suas præferunt, quia in causa Cæciliani quondam ecclesiæ Carthaginensis episcopi, cui crimina objecerunt, quæ nec potuerunt probare, nec possunt, se ab ecclesia catholica, hoc est, ab unitate omnium gentium diviserunt. Quamvis et si vera essent, quæ ab eis objecta sunt Cæciliano, et nobis possent aliquando monstrari, ipsum jam mortuum anathematizaremus. Epist. clii. ad Donatistas. (p. 696, cit. edit.) (347. D.) Quum ventum fuisset ad causam etiam Cæciliani, quam nos ab ecclesiæ causa distinguebamus, ut si forte malus esset inventus, ipsum anathematizaremus, &c. . . . In ipsa caussa Cæciliani, quam licet ad ecclesiæ causam non pertinentem, tamen defendendam suscepimus, ut etiam ibi calumniæ manifestarentur ipsorum, apertissime victi sunt, nihilque eorum, quæ in Cæcilianum intendebant, probare potuerunt.

ⁱ Optat. (Paris. 1631. vol. i. p. 45.) (p. 30, edit. Paris. 1679.) Jamdudum opinionis incertæ, et inter caligines, quas livor et invidia exhalaverat, latere veritas videbatur. Sed etiam omnis Scriptura memorata, et actorum voluminibus, et epistolis commemoratis aut lectis revelata est. Vides, frater Parmeniane, in catholicos traditorum nomine falso objecto, frustra esse inventum (alii *invectum*): mutans videlicet personas et transferens merita: clausisti oculos, ne parentes tuos reos agnosceres: aperuisti eos, ut innocentes et indignos crimini copulares.

^k Aug. contr. Crescon. lib. iii. c. xxvii. seqq. It. Epist. clii. p. 697. Insuper etiam de criminibus traditionis nos episcopalia Gesta protulimus, unde recitavimus aliquos eorum episcoporum, qui sententias in absentem dixerant Cæcilianum, manifestissimos fuisse traditores. Contra ipsa Gesta illi, quia non habebant quod dicerent, falsa esse dixerunt; sed nullo modo probare potuerunt. (Bened. 1700. vol. ii. p. 348. C.)

Optat. lib. vi. p. 93, 94. (p. 110, 111, edit. cit. Paris.) Quid est tam sacrilegum, quam altaria Dei, (in quibus et vos aliquando obtulistis) frangere, radere, removere? . . . Quid est altare, nisi sedes et corporis et sanguinis Christi? Hæc

the communion-tables which they found in the catholic churches : and their profaning the holy sacrament in a most vile manner, of which he gives a most remarkable instance : some of the Donatist bishops in their mad zeal ordered the Eucharist, which they found in the catholic churches, to be thrown to the dogs, but not without an immediate sign of divine vengeance upon them : for the dogs instead of devouring the elements fell upon their masters, as if they had never known them, and tore them to pieces, as robbers, and profaners of the holy body of Christ : which makes Optatus put them in mind of that admonition of our Saviour, ^m “ Give not that which is holy unto the dogs, neither cast ye your pearls before swine, lest they trample them under their feet, and turn again and rend you.” It was a like profanation of the holy Eucharist which Cornelius charges upon Novatian,ⁿ when he obliged his partizans, instead of saying “ Amen ” at the reception of it, to swear by the body and blood of Christ that they would never desert his party, nor return to Cornelius. It was also reckoned a piece of sacrilege to give the catholic churches to heretics, in which St. Ambrose stoutly opposed the younger Valentinian : when he sent him an order to deliver up one of the churches of Milan to the Arians, he returned him this courageous answer, “ Those things^o which are God’s,

omnia furor vester aut rasis, aut fregit, aut removit . . . ut removerentur, ex parte verecundia jussit : ubique tamen nefas est, dum tantæ rei manus sacrilegas et impias intulistis. Quid perditorum conductam referam multitudinem, et vinum in mercedem sceleris datum ? Quod ut immundo ore sacrilegis haustibus biberetur, calidum de fragmentis altarium factum est.

^m Optat. lib. ii. p. 55. (p. 49, 50, edit. Paris. cit.) Ne dederitis sanctum canibus, neque miseritis margaritas ante porcos, ne conculcent pedibus suis eas, et conversi elidant vos.

ⁿ Cornel. Epist. ad Fabium ap. Euseb. lib. vi. c. xliii. (Vales. p. 199. D.) Ποιήσας τὰς προσφορὰς, καὶ διανέμων ἑκάστῳ τὸ μέρος, καὶ ἐπιτιδοὺς τοῦτο ὀμνύειν ἀντὶ τοῦ εὐλογεῖν τοὺς τάλαιπῶρους ἀνθρώπους ἀναγκάζει, κατέχων ἀμφοτέραις ταῖς χερσὶ τὰς τοῦ λαβόντος, καὶ μὴ ἀφείς, ἔστ’ ἂν ὀμνύοντες εἴπωσι ταῦτα· τοῖς γὰρ ἐκείνου χρῆσθαι λόγοις· Ὁμοσὸν μοι κατὰ τοῦ σώματος καὶ τοῦ αἵματος τοῦ Κυρίου ἡμῶν Ἰησοῦ Χριστοῦ, μὴδὲ ποτέ με καταλιπεῖν, καὶ ἐπιστρέψαι πρὸς Κορνήλιον.

^o Ambros. Epist. xxxiii. de tradendis basiliciis. (epist. xiv. p. 206. tom. v. Opp. edit. Paris. 1642.) Ea, quæ divina, imperatoris potestati non sunt subiecta. Si patrimonium petitur, invadite : corpus, occurram. Vultis in vincula rapere ? Vultis in mortem ? Voluptati est mihi. Non ego me vallabo circum-

are not subject to the emperor's power. If my patrimony is demanded, you may invade it; if my body, I will offer it of my own accord. I will not fly to the altar, and supplicate for life; but more joyfully sacrifice my life for the altar." There are some instances of men turning churches^p into stables; but as these were very abominable, so there were but few that fell into such prodigious profanations. We may reckon also all sorts of idolatry, and divination, and magic, and the abuse of Scriptures for lots and charms and amulets among the species of sacrilege, as some of the ancient councils do.^q But I have spoken fully of these under former heads; and therefore there is no occasion here to repeat them. I only add, that to molest or hinder a clergyman in the performance of his proper office by avocation to other business, and laying him under a necessity of following other employments inconsistent with the duties of his proper station and function, is, in the civil law, called sacrilege. Constantine, in his first settlement of religion, made a law,^r that "they who ministered in the service of God, should be excused from all personal duties in the state; *fusione populorum, nec altaria tenebo vitam obsecrans, sed pro altaribus gratias immolabor.*

^p Vide Baron. dlxxii. (Antverp. 1603. vol. vii. p. 575.) (p. 587, edit. 1658.) Charibertus rex, quum exosis clericis, ecclesias Dei negligeret, despectisque sacerdotibus, magis in luxuriam declinasset; ingestum est ejus auribus, locum quemdam, quem basilica S. Martini diuturno tempore retinebat, sibi suo juri, reddique debere: loco autem illi Navicellis nomen prisca vetustas indiderat. Qui accepto iniquo consilio, pueros velociter misit, qui remiculam illam in suo dominio subjugarent. Quumque hæc recte possidens videretur habere, jussit in locum illum stabularios cum equitibus dirigi, ibique sine æquitatis ordine præcepit equos ali.

^q Concil. Tolet. IV. c. xxviii. (Labbé, vol. v. p. 1714.) Si episcopus, aut presbyter, sive diaconus, aut quilibet ex ordine clericorum, magos, aut aruspices, aut ariolos, aut certe augures vel sortilegos, vel eos qui profitentur artem aliquam [magicam], aut aliquos eorum similia exercentes, consulere fuerit deprehensus, ab honore dignitatis suæ depositus, monasterium ingressus [depositus monasterii] pœnam excipiat, ibique perpetuæ pœnitentiæ deditus scelus admisum sacrilegii luat.

^r Cod. Theod. lib. xvi. tit. ii. de Episc. et Cler. leg. ii. (Lugdun. 1665. vol. vi. p. 22.) Qui divino cultui ministeria religionis impendunt, (id est, hi, qui clerici appellantur,) ab omnibus omnino muneribus excusentur: ne sacrilego livore quorumdam a divinis obsequiis avocentur. Vide leg. vii. ibid. Rectores divinorum apicum, et hypodiaconi, ceterique clerici, qui per injuriam hæreticorum ad curiam devocati sunt, absolvantur: et de cætero ad similitudinem Orientis minime ad curias devocentur, sed immunitate plenissima potiantur

that the sacrilegious envy of some, who gave them disturbance, might not withdraw them from the service of religion." And agreeable to the tenour of this law, we find a rule of the Church as ancient as St. Cyprian, that "no one should employ a clergyman in the business of a secular trust," to be a guardian or curator of his worldly concerns by his last will and testament, under the penalty of excommunication, or having his name blotted out of the diptychs of the Church after death."

There are abundance of laws in the Theodosian Code, beside that of Constantine, settling great privileges, exemptions, and immunities upon the clergy, in regard to their office; as also upon churches, in regard to the respect and veneration that is due to them, as the houses of God and places of divine worship: upon which account they were made sanctuaries or places of refuge for men in certain proper cases, whence they might not be taken by violence, without the imputation of a sort of sacrilege fixed on the invaders. But of all these privileges and immunities, I have had occasion to discourse at large¹ before, in speaking of churches and the clergy, and therefore need not here repeat them; but only mention a law of Honorius,² which expressly charges the crime of sacrilege upon all such as offered any injury or affront to ministers officiating in the Church, or to the service itself, or to the place: ordering all such criminals to be notified by public officers (not waiting for the bishop's accusation of them) to the governor of the province, who was to proceed against them, and condemn them with the punishment of capital offenders.

¹ Cyprian. Epist. lxvi. al. i. ad cler. Furnit. (Oxon. 1682. p. 3.) (p. 170, edit. Fellii, Amstelod. 1700.)

² Lib. v. cap. iii. vol. ii. p. 26, seqq. lib. viii. cap. xi.

³ Cod. Theod. lib. xvi. tit. ii. de Episcopis, leg. xxxi. (Lugdun. 1665. vol. vi. p. 66.) Si quis in hoc genus sacrilegii proruperit, ut in ecclesias catholicas irruens, sacerdotibus et ministris, vel ipsi cultui locoque aliquid importet injuriæ . . . provinciæ moderator, sacerdotum et catholicæ ecclesiæ ministrorum, loci quoque ipsius, et divini cultus injuriam, capitali in convictos sive confessos reos sententia noverit vindicandum. Nec expectet, ut episcopus injuriæ propriæ ultionem deprecatur, cui sanctitas ignoscendi solam gloriam reliquit, &c.

SECT. XXVII.—*The Sacrilege of depriving men of the use of the Scripture, and the Word of God, and the Sacraments, particularly of the Cup in the Lord's Supper.*

There is one species of sacrilege more, which the casuists of the Romish Church for a good reason never mention: that is, the grand sacrilege of their own Church in depriving men of the use of the holy Scriptures, and the cup in the Lord's supper; both which, with unparalleled magisterial authority, are sacrilegiously and injuriously taken from them. That the ancients reckoned it the sin of sacrilege to divide the communion without reason, and deny men the use of the cup, needs no other proof at present but the testimony of Gelasius, one of their own popes, which is still extant in their canon law,^u in the words of the following decree: "We understand there are some, who receive only a portion of the holy body, and abstain from the cup of the holy blood: who doubtless being bound by some vain superstition, ought either to receive the whole sacrament, or to be excluded from the whole; because one and the same mystery cannot without grand sacrilege be divided." Such sacrilegious dividers of the communion are also condemned by Pope Leo,^x and ordered to be excommunicated. And they who take the Eucharist and use it for any other end besides communicating, are censured by the first Council of Toledo (Can. 14), and that of Cæsaraugusta (Can. 3), as sacrilegious also, deserving to be banished the Church with anathema or excommunication. But of these I have discoursed more at large in a former book.¹

^u Gelas. ap. Gratian. de Consecrat. Distinct. ii. cap. xii. Comperimus, quod quidam, sumta tantummodo corporis sacri portione, a calice sacri cruoris absterneant. Qui procul dubio (quoniam nescio, qua superstitione docentur obstringi) aut integra sacramenta percipiant, aut ab integris arceantur: quia divisio unius ejusdem mysterii sine grandi sacrilegio non potest provenire.

^x Leo, serm. iv. de Quadragesima. Ore indigno corpus Christi accipiunt: sanguinem autem redemptionis nostræ haurire omnino declinant . . . quorum deprehensa fuerit sacrilega simulatio, notati et prohibiti a sanctorum societate sacerdotali auctoritate pellantur. (Lugdun. 1700. vol. i. p. 106.)

¹ Lib. xv. cap. iv. § xiii. vol. v. p. 193. And cap. v. § i. ibid. 208.

There were many heretics in the ancient Church who were guilty of sacrilege in relation to the other sacrament of baptism. Some rejected it wholly; others corrupted it in the material part; and others in the form of words necessary to the administration: of all which the reader may find a large account in a former book,¹ which particularly handles the subject of baptism. But there were none that ever presumed sacrilegiously to deny Christians their proper birthright, which is, to read the Scriptures. Some heretics corrupted them; and others rejected such parcels of them as they thought most opposite to their peculiar notions: but none who allowed them to be the inspired writings and oracles of the Holy Ghost, ever denied the people liberty to search and examine them for their own instruction. This is a piece of sacrilege peculiar to these later ages, which the ancients knew nothing of, and therefore had no occasion to make canons or rules of discipline to correct it. There are many exhortations to read the Scriptures, but no orders to keep them locked up in an unknown tongue, or to forbid the people to use them upon any occasion. And the only reason why there are no censures anciently to be found against this sort of sacrilege is, because the sin itself was utterly unknown to the primitive ages.

There was indeed sometimes a neglect in ignorant or careless teachers in preaching the word of God to the people; and this is censured by some laws² even in the Civil Code as a sacrilegious withdrawing from the people the necessary food of their souls. But of this I need say no more in this place, having fully represented the laws³ obliging bishops and presbyters to be faithful and diligent in discharging this part of their duty, while we were discoursing of preaching, and the usages relating to it, in the ancient Church.

There are some other things which sometimes bear the name of sacrilege; but because they more properly belong to other species of sin, as breach of vows, to perjury; and defilement

¹ Lib. xi. cap. ii. et iii. vol. iii. p. 411, seqq.

² Cod. Theod. lib. xvi. tit. ii. de Episcopis, leg. xxv. Theodosii M. (Lugdun. 1665. vol. vi. p. 57.) Qui divinæ legis sanctitatem aut nesciendo confundunt, aut negligendo violant et offendunt, sacrilegium committunt.

³ Lib. xiv. cap. iv. § ii. vol. iv. p. 516, seqq.

of consecrated virgins, to fornication ; we will consider the discipline and treatment of these and the like offences under their proper heads, and proceed to the last sort of sin, which shows irreverence to God in the use of sacred things, commonly called ‘Simony,’ which is also a sort of sacrilege, because it sets spiritual and sacred things to sale, which are not the subject of a secular contract.

SECT. XXVIII.—*Of Simony in buying and selling spiritual Gifts.*

This is commonly distinguished by the ancients into three sorts. 1. Buying and selling of spiritual gifts. 2. Buying and selling of spiritual preferments. 3. Ambitious usurpation, and sacrilegious intrusion into ecclesiastical functions without any legal election or ordination. The first sort was that which most properly had the name of ‘Simony’ from Simon Magus, who pretended with money to purchase the gift of the Holy Ghost. And this was always thought to be committed when men either offered or received money for ordinations. Which was a crime of a very high nature, and always punished with the severest censures of the Church. The Apostolical Canons² seem to lay a double punishment, both deposition and excommunication, upon such of the clergy as were found guilty of this crime: “If any bishop, presbyter, or deacon obtain this dignity for money, both he that is ordained, and the ordainer, shall be deposed, and also cut off from all communion, as Simon Magus was by Peter.” The general Council of Chalcedon has a canon to the same purpose, “That if any bishop gave an ordination, or any ecclesiastical office, or preferment of any kind, for money ; he himself should lose his office, and the party so preferred be deposed.”³ The same

² Can. Apostol. xxviii. (al. xxii.) (Labbé, vol. i. p. 29.) Εἰ τις ἐπίσκοπος διὰ χρημάτων τῆς ἀξίας ταύτης ἐγκρατῆς γένηται, ἢ πρεσβύτερος, ἢ διάκονος, καθαιρεῖσθω καὶ αὐτὸς, καὶ ὁ χειροτονήσας, καὶ ἐκκοπήσθω παντάπασι τῆς κοινωνίας, ὡς Σίμων ὁ Μάγος [ἀπ’] ὑπ’ ἐμοῦ Πέτρου.

³ Concil. Chalced. c. ii. (Labbé, vol. iv. p. 755.) Εἰ τις ἐπίσκοπος ἐπὶ χρήμασι χειροτονίαν ποιήσαιο, καὶ εἰς πᾶσιν καταγάγῃ τὴν ἄπρατον χάριν, καὶ χειροτονήσῃ ἐπὶ χρήμασιν ἐπίσκοπον, ἢ χωρεπίσκοπον, ἢ πρεσβύτερον, ἢ διάκονον, ἢ ἑτερόν τινα τῶν ἐν τῷ κλήρῳ καταριθμουμένων, ἢ προβάλλοιτο ἐπὶ

punishment is appointed in the second Council of Orleans;^b the second of Braga;^c the fourth of Toledo;^d the eleventh of Toledo;^e the Council of Constantinople under Gennadius;^f the decrees of Gelasius;^g Symmachus;^h Hormisdas;ⁱ and

χρήμασιν ἢ οἰκονόμον, ἢ ἐκδικον, ἢ προσμονάριον, ἢ ὅλως τινὰ τοῦ κανόνος, δι' αἰσχροκερδεῖαν οἰκείαν· ὁ τοῦτο ἐπιχειρήσας, ἐλεγχθεὶς, περὶ τὸν οἰκεῖον κινδυνεύει βαθμόν· καὶ ὁ χειροτονούμενος μηδὲν ἐκ τῆς κατ' ἐμπορίαν ὠφελίσθω χειροτονίας ἢ προβολῆς, ἀλλ' ἔστω ἀλλότριος τῆς ἀξίας, ἢ τοῦ φροντισματος, οὐπερ ἐπὶ χρήμασιν ἐνυχεύ.

^b Conc. Aurel. II. can. iii. (Labbé, vol. iv. p. 1780.) Ne quis episcopus de quibusbilibet causis, vel episcoporum ordinationibus, ceterorumque clericorum, aliquid præsumat accipere: quia sacerdotem nefas est cupiditatis venalitate corrumpi. Can. iv. Si quis sacerdotium per pecunie nundinum execrabili ambitione quæsierit, abjiciatur ut reprobis: quia apostolica sententia donum Dei esse præcipit, pecunie trutina minime comparandum.

^c Concil. Bracar. II. (al. III.) can. iii. (Labbé, vol. v. p. 897.) Placuit, ut de ordinationibus clericorum episcopi munera nulla suscipiant, sed, sicut scriptum est, quod gratis donante Deo accipiunt, gratis dent. Et non aliquo pretio gratia Dei et impositio manuum venundetur: quia antiqua definitio patrum ita de ecclesiasticis ordinationibus statuit, dicens, 'Anathema sit danti et accipienti,' &c.

^d Concil. Tolet. IV. c. xix. (Labbé, vol. v. p. 1711.) Perniciosa consuetudo nequaquam est reticenda, quæ, majorum statuta præteriens, omnem ecclesie ordinem perturbavit; dum alii per ambitum sacerdotium appetunt, alii oblati muneribus pontificatum assumunt. . . . Si quis deinceps contra prædicta vetita canonum ad gradum sacerdotii indignus adspirare contenderit, cum ordinatoribus suis adepti honoris periculo subiacebit.

^e Concil. Toletan. XI. c. viii. vide infra sub litt. (r).

^f Concil. Constantinop. Epist. synodic. conc. (Labbé, vol. iv. p. 1025. E 4.) Οὐαὶ τῷ ὄντι, τοῖς κτήσασθαι τὴν τοῦ Θεοῦ δωρεάν ἢ διδόναι ταύτην διὰ χρημάτων ὑπειληφόσιν· εἰς γὰρ χολὴν πικρίας καὶ σύνδεσμον ἀδικίας οἱ τοιοῦτοι, κατὰ τὴν ἀπόφασιν τοῦ ἁγίου Πέτρου, ὑπάρχουσι συλληφθέντες ὑπὸ τῆς ἐαυτῶν φιλαργυρίας.

^g Gelas. decret. Epist. ix. ad episcop. Lucaniæ, c.xxiv. (Labbé, vol. iv. p. 1134.) Qui constiterit indignos meritis, sacram mercatos esse pretio dignitatem, convictos oportet arceri non sine periculo facinus tale perpetrantes: quia dantem pariter et accipientem damnatio Simonis, quam sacra lectio testatur, involvit.

^h Symmach. Epist. v. ad Cæsar. Arelat. c. ii. Illud magnopere commomentes, ut hi, qui non Dei gratia, sed promissione rerum ecclesiasticarum præmiis ad sacerdotium conantur accedere, desideriorum talium priventur effectu. Qui autem ab hujusmodi se intentione cohibeant, aut vindictis canonum sciant se sine dubitatione subdendos. (Labbé, v. 1295.)

ⁱ Hormisd. Epist. xxv. ad episcop. Hispan. c. ii. Hoc quoque ad præmissa adjungimus, ne benedictionem, quæ divina esse creditur, per impositionem manus, quis pretio comparet: quoniam ante oculos esse convenit, quod Simon Spiritum sanctum volens redemptione mercari, apostoli fuerit detestatione percussus. (Labbé, ii. 1467.)

Gregory the Great ;^k St. Basil ;^l the second Council of Nice ;^m and the Council of Trullo.ⁿ Particularly the eighth Council of Toledo^o makes it both degradation and excommunication in every clerk so ordained. And also punishes the receivers of simoniacal gifts with equal severity ; if clergymen, with the loss of their honour ; if laymen, with perpetual excommunication to the hour of death. And the civil law also provided^p in this case, to prevent simoniacal ordinations, that both persons ordained, and also their electors and ordainers, should all take an oath 'That there was nothing given or received, or so much as contracted or promised, for any such election or ordination.' And for any bishop to ordain another without observing this rule is deposition by the same law, both for himself and him that is so ordained by him.

The ancients also reduce to this sort of simony the exacting of any reward for administering baptism, or the Eucharist, or confirmation, or burying, or consecration of churches, or any

^k Gregor. lib. vii. epist. cxi. (tom. iv. Concil. p. 1371, 1372.)

^l Basil. Epist. lxxvi. ad episcopos. (Labbé, vol. ii. p. 1769.)

^m Conc. Nic. II. can. v.

ⁿ Concil. Trullan. c. xxii. (Labbé, vol. vi. p. 1154.) Τοὺς ἐπὶ χρήμασι χειροτονούμενους, εἴτε ἐπισκόπους, εἴτε οἰουσδήποτε κληρικοὺς, καὶ οὐ κατὰ δοκιμασίαν καὶ τοῦ βίου αἵρεσιν, καθαρεῖσθαι προστάσσομεν, ἀλλὰ καὶ τοὺς χειροτονήσαντας.

^o Conc. Tolet. VIII. c. iii. (Labbé, vol. vi. p. 404.) Quicumque pro percipienda sacerdotii dignitate quodlibet præmium detectus fuerit obtulisse, ex eodem tempore se noverit anathematis opprobrio condemnatum, atque a participatione [perceptione] Christi corporis ac sanguinis alienum. . . Illi vero, qui pro hac causa munerum acceptores exstiterint ; si clerici fuerint, honoris amissione mulcentur ; si vero laici, anathemate perpetuo condemnentur.

^p Justin. Novell. cxliiii. c. i. Θεσπίζομεν, ὅσακις ἂν χρεια γένηται ἐπίσκοπον χειροτονηθῆναι, τοὺς κληρικοὺς καὶ τοὺς πρῶτους τῆς πόλεως, ἧς μέλλει ἐπίσκοπος χειροτονεῖσθαι, ἐπὶ τρισὶ προσώποις ψηφίσματα ποιεῖν, κινδύνῳ τῶν ἰδίων ψυχῶν, καὶ ἕκαστον αὐτῶν ὁμνῦναι κατὰ τῶν θείων λογίων, καὶ ἐγγράφειν ἐν αὐτοῖς, λέγοντας ἐν αὐτοῖς τοῖς ψηφίσμασιν, ὅτι οὐτε διὰ τινα δόσιν, οὐτε διὰ ὑπόσχεσιν, ἢ φιλίαν, ἢ δι' ἄλλην οἰανδήποτε αἰτίαν, ἀλλ' εἰδότες αὐτοὺς τῆς ὀρθῆς καὶ καθολικῆς πίστεως καὶ σεμνοῦ εἶναι βίου, καὶ γράμματα εἰδέναι, τούτους ἐπελέξαντο. . . . Εἰ δέ τις παρὰ τὴν μνημονευθεῖσαν παραφυλακὴν ἐπίσκοπος χειροτονηθῇ, κελεύομεν τοῦτον πᾶσι τρόποις τῆς ἐπισκοπῆς ἐκβάλλεσθαι ; ἀλλὰ κἀκείνον, ὅστις παρὰ ταῦτα ἐτόλμησε χειροτονῆσαι, χωρίζεσθαι, ἐπὶ ἕνα ἐνιαυτὸν τῆς ἱερατικῆς λειτουργίας. (See Novell. cxlii. c. ii. in qua eadem leguntur.) (Amstel. 1663. p. 168.)

the like spiritual offices, which were to be administered freely, without demanding any reward. The Council of Trullo^a particularly forbids any clergyman to require any thing for administering the eucharist: for "grace is not to be set to sale; neither do we impart the sanctification of the Spirit for money, but give it without craft to all that are worthy. And he that does otherwise, shall be deposed as a follower of the wicked error of Simon Magus." The eleventh Council of Toledo forbids not only the taking of money for promotions to holy orders, but also for administering baptism, or confirmation^r or chrism; and the bishop that connives at any of his clergy so doing, is ordered to be excommunicated for two months: and if a presbyter without his knowledge commits such offence, he is to be excommunicated four months; a deacon, three months; and those of the inferior orders, excommunicated at discretion. There are several other ancient canons to the same purpose in the Councils of Eliberis^s and Braga,^t and the decrees of Gelasius,^u which have been men-

^a Conc. Trull. c. xxiii. (Labbé, vol. vi. p. 1154.) *Περὶ τοῦ μηδένα, εἴτε ἐπίσκοπον, εἴτε πρεσβύτερον, ἢ διάκονον, τῆς ἀχράντου μεταδιδόντα κοινωνίας, παρὰ τοῦ μετέχοντος εἰσπράττειν, τῆς τοιαύτης μεταλήψεως χάριν, ὁβολοῦς ἢ εἶδος τὸ οἰονοῦν· οὐδὲ γὰρ πεπραμένη ἡ χάρις, οὐδὲ χρήμασι τὸν ἁγιασμόν τοῦ Πνεύματος μεταδίδομεν· ἀλλὰ τοῖς ἀξίοις τοῦ δώρου ἀπανουργήτως μεταδοτέον· εἰ δὲ φανείη τις τῶν ἐν κλήρῳ καταλεγόμενων ἀπαιτῶν, ᾧ μεταδίδωσι τῆς ἀχράντου κοινωνίας, τὸ οἰονοῦν εἶδος, καθαιρεῖσθω, ὡς τῆς Σίμωνος ζηλώτης πλάνης καὶ κακοφυγίας.*

^r Concil. Tolet. XI. c. viii. (Labbé, vi. 550.) *Quicquid invisibilis gratiæ collatione tribuitur, nummorum questu, vel quibuslibet præmiis venundari penitus non debet, dicente Domino, 'Quod gratis accepistis, gratis date.'* Et ideo quicumque deinceps in ecclesiastico ordine constitutus, aut pro baptizandis consignandisque fidelibus, aut pro collatione chrismatis, vel promotionibus graduum pretia quælibet, vel præmia voluntarie oblata pro hujusmodi ambitione suscepit; equidem, si sciente loci episcopo tale quidquam a subditis perpetratur, idem episcopus duobus mensibus excommunicationi subjaceat; pro eo, quia et sciens mala contexit, et correctionem necessariam non adhibuit. Sin autem suorum quispiam, eodem nesciente, quodcumque pro supra dictis capitulis accipiendum esse sibi crediderit; si presbyter est, trium mensium excommunicatione plectatur; si diaconus, quatuor; subdiaconus vero, vel clericus his cupiditatibus serviens, et competenti verbere, et debita excommunicatione plectendus est.

^s Concil. Iliberit. c. xlviii. See vol. ii. p. 77.

^t Conc. Bracar. II. al. III. c. vii. *ibid.* sub litt. (k) p. 77.

^u Gelas. Epist. i. al. ix. ad episc. Lucaniæ, c. x. See vol. ii. p. 77.

tioned on another occasion,¹ where we treated of the proper methods of raising funds and maintenance for the clergy, and need not here be repeated.

SECT. XXIX.—*Of Simony in purchasing ecclesiastical preferments.*

But they did not only call that ‘simony’ which consisted in trafficking for the gifts of the Holy Spirit, but also all purchases made of the spiritual preferments of the Church, and all promotions made without just merit, out of mere favour and affection. The Council of Chalcedon² not only threatens deposition to any bishop that sets grace to sale, and ordains a bishop, or ‘Chorepiscopus,’ or presbyter, or deacon, or any clerk, for money; but also if he promotes an ‘Œconomus’ or steward, or an ‘Ecdicus,’ that is, an advocate or defensor, or a ‘Paramonarius,’ that is, a bailiff or steward of the lands, for his own filthy lucre. And both the clergy so ordained are to be degraded, and the officers so promoted to lose their places: and if any one be instrumental as a mediator in such dishonourable and unlawful traffic; if he be a clerk, he is to be degraded; if a layman, or a monk, to be anathematized. By the laws of Justinian,³ every elector was to depose upon oath that he did not choose the party elected either for any gift or promise, or friendship, or any other cause, but only because he knew him to be a man of the true catholic faith, and unblameable life, and good learning. Gregory the Great says,⁴ “There were some who took no reward of money for ordination, and yet were in some measure

¹ Book v. chap. iv. § 14. vol. ii. p. 75.

² Concil. Chalced. c. ii. (Labbé, vol. iv. p. 756.) *Εἰ δὲ τις καὶ μεσιτεύων φανείῃ τοῖς οὕτως αἰσχροῖς καὶ ἀθεμίτοις λήμμασιν, καὶ οὗτος, εἰ μὲν κληρικὸς εἴη, τοῦ οἰκείου ἐκπικτήτω βαθμοῦ· εἰ δὲ λαϊκός, ἡ μονάζων, ἀναθεματίζεσθω.* See also note (a) p. 132.

³ Justin. Novell. cxiii. c. i. See p. 134.

⁴ Gregor. Homil. ii. in evangel. *Sunt nonnulli, qui quidem nummorum præmia ex ordinatione non accipiunt, et tantum sacros ordines pro humana gratia largiuntur, atque de largitate eadem laudis solummodo retributionem quæerunt. Hi nimirum, quod gratis acceptum est, gratis non tribuunt, quia de impenso officio sanctitatis nummum expetunt favoris. . . Aliud munus est ab obsequio, aliud munus a manu, aliud munus a lingua. Munus quippe ab obsequio est subjectio indebite impensa; munus a manu pecunia est; munus a lingua favor.*

guilty of simony; because they gave holy orders for human favour, and thence sought the reward of praise and favour among men. They did not give freely what they had freely received, because for giving an holy office they required the gift of favour. For there were three sorts of bribes, one from obsequiousness, another from the hand, and another from the tongue. That from obsequiousness was a servile subjection unduly paid; that from the hand was money; that from the tongue was favour." But whether this sort of simony made men liable to ecclesiastical censure, he does not say; but only speaks against it as a great corruption from which they who give holy orders ought to keep themselves free, according to that of the prophet, (Isa. xxxiii. 15) "He that shaketh his hands from holding of bribes."

SECT. XXX.—*Of Simony in ambitious Usurpation of holy Offices, and Intrusion into other men's places and preferments.*

The last sort of simony was when men by ambitious arts and undue practices, by the favour and power of some great or wealthy person, got themselves invested in any office or preferment to which they had no regular call or legal title: or when they intruded themselves into other men's places which were legally filled before. This was the common practice of schismatical and other ambitious spirits, who would either thrust themselves irregularly into a vacant see, or usurp upon one that was already lawfully possessed and held by another. Thus Novatian got himself clancularly and simoniacally ordained to the bishopric of Rome, to which Cornelius had been legally ordained before him, as Cyprian^a and others often complain. And so Majorinus was ordained anti-bishop of Carthage in opposition to Cæcilian the legal bishop, by the help of Lucilla, a wealthy woman, who spirited the faction that was the first beginning of the schism of the Donatists, as Optatus^b and St. Austin at large inform us. Now all such ordi-

^a Cyprian. Epist. lii. al. lv. ad Antonian. p. 104. (p. 243, tot. edit. Fell. Amst.) Epist. xli. xlii. (xlv. xlv. tot. edit. Fellii, Amstel.) Et epist. Cornel. ap. Euseb. lib. vi. c. xliii. p. 197, 198, edit. Amstel. 1695.

^b Optat. lib. i. p. 41, 42. (p. 19, 20, 21, edit. Paris. 1679.) Tunc suffragio totius populi Cæcilianus eligitur. . . . Lucilla cum omnibus suis potens et facti-

nations being founded on ambition and usurpation, and generally obtained either by force, or favour, or fraud, or bribery, were usually vacated and declared null, and both the ordained and their ordainers prosecuted as criminals by degradation and reduction to the state and communion of laymen: of which, because I have given a full account in a former book,¹ I will not stand to make any further proof in this place: but only note, that it was equally a simoniacal crime for any bishop ambitiously to thrust himself irregularly into any vacant see, or remove himself by any sinister arts from a lesser see to a greater, in contempt and despite of the rules prescribed by the Church in that case to be observed. For, as I have noted in speaking formerly² upon this subject, there were many severe laws made against bishops arbitrarily removing themselves from one see to another. Though the translation of bishops was not absolutely and universally forbidden (because the Church had sometimes occasion for this expedient); yet care was taken, that ambitious spirits should not move themselves at pleasure, but all translations were regularly to be made only by the authority, consent, and approbation, of a provincial council: and to do otherwise was esteemed a crime of simoniacal ambition of the highest nature, as proceeding from avarice or love of pre-eminence, and using irregular methods, bribery, favour, and faction, to compass an end against the laws of the Church. And therefore the ancient canons of Nice³ and Antioch, and those called Apostolical,

osa femina communioni misceri noluit. . . Schisma igitur illo tempore confusæ mulieris iracundia peperit. . . Exitum est foras, et altare contra altare erectum est, et ordinatio illicite celebrata est: et Majorinus, qui lector in diaconio Cæciliani fuerat, domesticus Lucillæ, ipsa suffragante, episcopus ordinatus est. —Augustin. contr. epist. Parmen. lib. i. c. iii. . . quos ista factio (Lucillæ) convocaverat ad pernecium Cæciliani, ut illo deposito alter eis ordinaretur?

¹ Scholast. Hist. of Bapt. part ii. chap. ii. and iv.

² Lib. vi. c. iv. § vi. (vol. ii. p. 184. of this edition.)

³ Concil. Nicæn. can. xv. (Labbé, vol. ii. p. 36.) *Διὰ τὸν πολλὸν τάραχον καὶ τὰς στάσεις τὰς γινόμενας, ἔδοξε παντάπασι περιαιρεθῆναι τὴν συνήθειαν τὴν παρὰ τὸν κανόνα εὐρεθεῖσαν ἐν τισι μέρεσιν ὥστε ἀπὸ πόλεως εἰς πόλιν μὴ μεταβαίνειν, μήτε ἐπίσκοπον, μήτε πρεσβύτερον, μήτε διάκονον· εἰ δέ τις μετὰ τὸν τῆς ἁγίας καὶ μεγάλης συνόδου ὅρον, τοιοῦτῃ τινὶ ἐπιχειρήσειεν, ἢ ἐπιδοίῃ αὐτὸν πράγματι τοιοῦτῃ· ἀκυρωθήσεται ἐξ ἅπαντος τὸ κατασκευάσμα, καὶ ἀποκατασταθήσεται τῇ ἐκκλησίᾳ, ἣ ὁ ἐπίσκοπος ἢ ὁ πρεσβύτερος ἐχειροτο-*

not only barely forbid and disallow this practice ; but the Council of Sardica,^d finding by experience that simple prohibitions were not sufficient to repress it, and restrain aspiring men from it, backed her injunctions with the highest censures, making two very remarkable canons, which run in these words : “ That evil custom and pernicious corruption is by all means to be rooted out, that no bishop have liberty to remove himself from a lesser city to another. For the reason why he does this, is plain ; seeing that we never find a bishop labouring to remove himself from a greater city to a less. Whence it is manifest, that all such are inflamed with ardour of covetousness, and rather serve their ambition and vain-glory, that they may seem to be invested with greater authority and power. Wherefore this sinister practice ought to be punished more severely.”— “ And in my opinion,” says Hosius, the President of the Council, “ such ought not to be allowed so much as lay com-

νήθη. — Concil. Antiochen. c. xxi. (Labbé, vol. ii. p. 572.) ‘Επίσκοπον ἀπὸ παροικίας ἐτέρας εἰς ἐτέραν μὴ μεθίστασθαι, μήτε αὐθαίρετως ἐπιφύριπτοντα ἑαυτὸν, μήτε ἀπὸ λαῶν ἐκβιαζόμενον, μήτε ὑπὸ ἐπισκόπων ἀναγκαζόμενον· μένειν δὲ εἰς ἣν ἐκληρώθη ὑπὸ τοῦ Θεοῦ ἐξαρχῆς ἐκκλησίαν, καὶ μὴ μεθίστασθαι αὐτῆς, κατὰ τὸν ἤδη πρότερον ἐξενηχθέντα ὕρον.—Can. Apost. xiii. (Labbé, vol. i. p. 28.) ‘Επίσκοπον μὴ ἐξεῖναι καταλείψαντα τὴν ἑαυτοῦ παροικίαν ἐτέρα ἐπιπηδῶν, κὰν ὑπὸ πλείονων ἀναγκάζηται· εἰ μὴ τις εὐλογος αἰτία ᾗ, ἢ τοῦτο βιαζομένη αὐτὸν ποιεῖν, ὥς κλείδον τι κέρδος δυναμένον αὐτοῦ τοῖς ἐκείσε λόγῳ εὐσεβείας συμβάλλεσθαι· καὶ τοῦτο δὲ, οὐκ ἀφ’ ἑαυτοῦ, ἀλλὰ κρίσει πολλῶν ἐπισκόπων, καὶ παρακλήσει μεγίστη.

^d Concil. Sardic. c. i. (Labbé, vol. ii. p. 628.) Οὐ τοσοῦτον ἡ φαῦλη συνήθεια, ὅσον ἡ βλαβερωτάτη τῶν πραγμάτων διαφθορά ἐξ αὐτῶν τῶν θεμελίων ἐστὶν ἐκρίζωτα· ἵνα μηδενὶ τῶν ἐπισκόπων ἐξῆ ἀπὸ πόλεως μικρᾶς εἰς ἐτέραν πόλιν μεθίστασθαι· ἡ γὰρ τῆς αἰτίας ταύτης πρόφασις φανερά ἐστι, δι’ ἣν τὰ τοιαῦτα ἐπιχειρεῖται· οὐδεὶς γὰρ πώποτε εὐρεθῆναι ἐπισκόπων δεδυνήται, ὃς ἀπὸ μείζονος πόλεως ἐλαχιστοτέραν πόλιν ἐσπούδασε μεταστῆναι· ὅθεν συνέστηκε, διαπύρῳ πλεονεξίας τρόπῳ ὑπεκκαίεσθαι τοὺς τοιοῦτους, καὶ μᾶλλον τῇ ἀλαζονείᾳ δουλεύειν, ὅπως ἐξουσίαν δοκοῖεν μείζονα κεκτηθῆσαι· εἰ πᾶσι τοίνυν τοῦτο ἀρέσκει, ὥστε τὴν τοιαύτην σκαιότητα αὐστηρότερον ἐκδικηθῆναι ; ἡγοῦμαι γὰρ μηδὲ λαϊκῶν ἔχειν τοὺς τοιοῦτους χρῆναι κοινωνίαν· πάντες οἱ ἐπίσκοποι εἴπω· Ἀρέσκει πᾶσιν.—Ibid. can. ii. (ibid. p. 628.) Εἰ δὲ τις τοιοῦτος εὐρίσκειτο μανιώδης ἢ τολμηρὸς, ὥς περὶ τῶν τοιούτων δόξατινὰ φέρειν παραίτησιν, διαβεβαιούμενον ἀπὸ τοῦ πλήθους ἑαυτὸν ἐκεκομίσθαι γράμματα· δῆλόν ἐστιν, ὀλίγους τινὰς δεδυνῆσθαι μισθῷ καὶ τιμῇματι διαφθαρέντας ἐν τῇ ἐκκλησίᾳ στασιάζειν, ὥς δῆθεν ἀξιούντας τὸν αὐτὸν ἔχειν ἐπίσκοπον· καθάπαξ οὖν τὰς ῥηδιουργίας τὰς τοιαύτας καὶ τέχνας κολαστίας εἶναι νομίζω, ὥστε μηδένα τοιοῦτον μηδὲ ἐν τῷ τέλει λαϊκῆς γοῦν ἀξιούσθαι κοινωνίας· εἰ τοίνυν αἰρέσει ἢ γνώμῃ αὕτη, ἀποκρίνασθε· ἀπεκρίναντο· Τὰ λεχθέντα ἤρρεσεν.

munion." The next canon adds, "That if any one be so vain or presumptuous as to think to excuse himself in this matter, by saying that he received letters of invitation from the people; seeing it is possible some might be corrupted by bribes and rewards to raise a faction in the church, and desire to have him for their bishop;"—"I think," says Hosius again, "these fraudulent arts and underhand practices ought to be undoubtedly punished, so as that such an one should not be allowed even lay communion at his last hour."—And to this the council readily agreed: which shows what apprehensions they had of this sort of simony, as most dangerous and pernicious to the Church. And it is worth remarking farther, that whereas it might happen that such an ambitious bishop might, by the power of a faction, be able to maintain himself in his usurpation, in spite of all ecclesiastical censures; therefore in this case the third Council of Carthage gave orders,* "That recourse should be had to the secular magistrate against such a refractory and contumacious bishop, who would not submit to the milder sentence of an admonition; and that in such an exigence of absolute necessity, the ruler of the province should be entreated, according to the directions of the Imperial laws, to use his judicial authority to expel him out of the Church, which he kept possession of by force, without giving any signs of acquiescing or amendment." Whether there were any Imperial laws made with a direct view to this particular case I cannot say; but it is certain there were general laws made by Gratian and Honorius,^f

* Concil. Carth. III. c. xxxviii. (Labbé, ii. 1172.) *Necessitate ipsa cogente liberum sit nobis, rectorem provincie, secundum statuta gloriosissimorum principum, adversus illum adire; ut, qui miti admonitioni acquiescere noluit, et emendare illicitem, auctoritate judiciaria protinus excludatur. Vide sis can. xliiii. ibid.*—Cod. Afric. c. xlviii. *Αἰτούμεν κατὰ τὸ ἐνταλὲν ἡμῖν, ἵνα καταξέωσθε δοῦναι παρρησίαν ἐπ' ἀδείας ἡμῖν γενέσθαι· ὅτι αὐτῇ ἡ ἀνάγκη παρασκευάζει τῷ ἄρχοντι τῆς χώρας κατ' ἐκείνου προσελθεῖν, κατὰ διατάξεις τῶν ἐνδοξαίων βασιλέων, ἵνα ὁ τῇ πρῶτῃ ὑπομνήσει τῆς ὑμετέρας ἀγιστάτης πειθαρχῆσαι μὴ θελήσας, καὶ διορθώσασθαι τὸ ἀσυγχώρητον, ἀθθεντῖα ἄρχοντικῇ παραχρῆμα κωλυθῇ.* (Labbé, vol. ii. p. 1071.)

^f Cod. Theod. lib. xvi. tit. ii. de Episcopis, leg. xxxv. Honorii. (Lugd. 1665. vol. vi. p. 72.) *Quicumque residentibus sacerdotibus fuerit episcopali loco detrusus et nomine, si aliquid vel contra custodiam, vel contra quietem publicam moliri fuerit deprehensus, rursusque sacerdotium petere, a quo videtur expulsus,*

obliging all bishops, who were censured and deposed by any synod, to submit to the sentence of the synod, and not to make any disturbance by endeavouring to keep or regain the sees out of which they were synodically expelled, under the penalty of being banished an hundred miles from the city where they pretended to raise any such disturbance. This was the law of Honorius, which refers to a former law made by Gratian upon the same subject, which is also mentioned by Sulpicius Severus^s in his history as enacted against the Priscillianists, though it be not now extant in the Theodosian Code. And to these laws the African fathers might refer, when they order all such contumacious bishops to be expelled by the authority of the civil magistrate, according to the tenor of the Imperial laws made in this behalf, to which they refer also in other canons^h relating to the same purpose. And thus much of the several greater crimes against the first and second commandments, which made men liable to the penitential discipline and censures of the Church.

CHAPTER VII.

OF SINS AGAINST THE THIRD COMMANDMENT, BLASPHEMY,
PROFANE SWEARING, PERJURY, AND BREACH OF VOWS.

SECT. I.—*The Blasphemy of Apostates.*

THE greater sins against the third commandment, which chiefly brought men under public ecclesiastical censure, were blasphemy, profane swearing, perjury, and breach of vows solemnly made to God. For all these reflected a particular dishonour upon his name. Blasphemy they distinguished into

procul ab ea urbe quam infecit, secundum legem Divæ memoriæ Gratiani, centum millibus vitam agat, &c.

^s Sever. Histor. lib. ii. p. 116. (cap. xlvii. p. 282, edit. Lips. 1703.) Post multa et fœda, Idacio supplicante, dicitur a Gratiano tum Imperatore rescriptum, quo universi hæretici excedere non ecclesiis tantum aut urbibus, sed extra omnes terras propelli, jubebantur.

^h Cod. Afric. can. xciii. al. xcv. (Concil. tom. ii. p. 1110.)

three sorts; 1st. The blasphemy of apostates and lapsers, whom the heathen persecutors obliged not only to deny, but curse Christ. 2dly. The blasphemy of heretics and other profane Christians. 3dly. The blasphemy against the Holy Ghost. The first sort we find mentioned in Pliny, who giving Trajan an account of some Christians who apostatized in the persecution in his time, tells him, "They all worshipped his image, and the images of the gods, and also cursed Christ."^a And that this was the common way of renouncing their religion, appears from the demand which the proconsul made to Polycarp, and Polycarp's answer to it. He bid him revile Christ, *λοιδορήσον τὸν Χριστόν*:^b to whom Polycarp replied, "These eighty-six years I have served him, and he never did me any harm: how, then, can I blaspheme my king and my Saviour?" In the epistles of Dionysius, Bishop of Alexandria, where he gives an account of the persecution that happened there, we find this was the usual way whereby the heathen required the Christians to abjure their religion. They bid Metras the martyr^c say the atheistical words: which when he refused to do, they stoned him to death. So again they bid Apollonia say^d the impious words, beating out her teeth, and threatening to burn her alive, if she refused to comply with them: and threatening all others with the same punishment that would not say the blasphemous words. Now though Valesius thinks it difficult to tell what these impious, blasphemous

^a Plin. lib. x. Epist. xcvii. Omnes et imaginem tuam deorumque simulachra venerati sunt, iique et Christo maledixerunt. (Gierig. ii. p. 512.)

^b Euseb. lib. c. xv. (p. 106, at bottom.) Ἐγκειμένον δὲ τοῦ ἡγουμένου καὶ λέγοντος, . . . Λοιδόρησον τὸν Χριστόν· ἔφη ὁ Πολύκαρπος, Ὀδοῆκοντα καὶ ἐξ ἔτη δουλεύω αὐτῷ, καὶ οὐδὲν με ἥδικησε· καὶ πῶς δύναμαι βλασφημῆσαι τὸν βασιλέα μου, τὸν σῶσαντά με;

^c Ap. Euseb. lib. vi. c. xli. (Vales. 1665. p. 193. A 2.) Πρεσβύτην Μητράν δυνάμει συναρπάσαντες, καὶ κελεύσαντες ἄθεα λέγειν ῥήματα· μὴ πειθόμενον, ξύλοις τε παίοντες τὸ σῶμα, καὶ καδάμοις ὀξέσι τὸ πρόσωπον καὶ τοὺς ὀφθαλμοὺς κεντοῦντες, ἀγαγόντες εἰς τὸ προάστειον, κατελιθοβόλησαν.

^d Ibid. (p. 193. B 11.) Ἀλλὰ καὶ τὴν Θαυμασιωτῆτην τότε παρθένον πρεσβύτιν Ἀπολλωνίαν διαλαβόντες, τοὺς μὲν ὀδόντας ἅπαντας, κόπτοντες τὰς σιαγόνας, ἐξήλασαν· πῦρ δὲ νήσαντες πρὸ τῆς πόλεως, ζώσαν ἡπείλουν κατακαῦσαι, εἰ μὴ συνεκφωνήσειεν αὐτοῖς τὰ τῆς ἀσεβείας κηρύγματα· . . . αἰεὶ καὶ πανταχοῦ πάντων κεκραγόντων, εἰ μὴ τὰ δύσφημα τίς ἀνυμνοίῃ ῥήματα, τοῦτον εὐθὺς δεῖν σύρεσθαι τε καὶ πίμπρασθαι.

mous, and atheistical words were, yet it seems plain enough they meant blaspheming Christ, which was the thing the heathen insisted on as their certain indication of Christians' renouncing their religion. And so Justin Martyr^e says, 'when Barchocab, the ringleader of the Jewish rebellion under Adrian, persecuted the Christians, he threatened to inflict terrible punishments upon all that would not deny Christ and blaspheme him.' This, then, being only a more solemn way of renouncing religion, by adding blasphemy to apostasy, all lapsers of this kind were deservedly reckoned among apostates, and accordingly punished with their punishment, to the highest degree of ecclesiastical censure.

SECT. II.—*The Blasphemy of Heretics and profane Christians.*

Another sort of blasphemers were such as made profession of the Christian religion; but yet either by impious doctrines, or profane discourses, uttered blasphemous words against God, derogatory to his majesty and honour. In this sense, heretics are commonly charged with blasphemy, and more especially those whose doctrines more immediately detracted from the excellences, properties, and actions of the divine nature. Thus Chrysostom^f terms those 'blasphemers' who introduced Fate in derogation to the providence of God: and Irenæus those likewise who denied God to be the Creator of the world.^g And the Arians and Nestorians are generally charged with blasphemy, impiety, and sacrilege,^h for denying the divinity of our Saviour, and the incarnation of the divine

^e Justin. Apol. ii. p. 72. 'Ἐν τῷ νῦν γεγενημένῳ Ἰουδαϊκῇ πολέμῳ Βαρχοχάβας, ὁ τῆς Ἰουδαίων ἀποστάσεως ἀρχηγέτης, Χριστιανοὺς μόνους εἰς τιμωρίας δεινὰς, εἰ μὴ ἀρνοῖντο Ἰησοῦν τὸν Χριστὸν καὶ βλασφημοῖεν, ἐκέλευσεν ἀπάγεσθαι. (Ashton, Cantabr. 1768. Apolog. i. c. 38. p. 62.)

^f Chrysost. Hom. ii. de Fato et Provid. tom. i. p. 811. D 7. (p. 717, edit. Francf.) Τινες εἰσὶν, οἱ τὸν Θεὸν κακῶς λέγοντες; οἱ τῇ σοφίᾳ τῆς προνοίας αὐτοῦ τὴν ἐκ τῆς εἰμαρμένης ἀταξίαν καὶ ἀνάγκην ἐπιτευχίζοντες.

^g Iren. præfat. in lib. iv. Nunc autem, quoniam novissima sunt tempora, extenditur malum in homines, non solum apostatas eos faciens, sed et blasphemus in plasmatores instituit.

^h Cod. Theod. lib. xvi. tit. v. de Hæreticis, leg. vi. Theodosii. Ariani sacri-legii venenum, &c. It. leg. viii. Sacrilegum dogma Arianorum. Hilarii fragment. p. 144. Arii blasphemix, &c.—Evagr. lib. i. c. ii. Νεστόριος, ἡ θεομαχὸς γλῶσσα . . . τὸ τῆς βλασφημίας ἐργαστήριον.

nature. So that the same punishment as was inflicted upon heretics and sacrilegious persons, was consequently the lot of this sort of blasphemers. St. Chrysostom joins blasphemers¹ and fornicators together, as persons that were to be expelled from the Lord's table. He says further,^k "Under the Mo-
saical economy the law was, 'Let him that curseth father or mother, die the death.' What shall we then say of those who in the time of grace and truth, and such extraordinary knowledge, not only curse father and mother, but blaspheme the God of the universe? All the punishments of this world and the next are not sufficient to chastise a soul, that is arrived to this prodigious height of wickedness. For there is no sin greater than this, none equal to it. It is an addition to all other crimes, confounding all religion, and drawing inexpiable punishment after it."

Neither was it only this doctrinal blasphemy of heretics, proceeding from corrupt and vicious principles, that they thus treated both with their censures and invectives; but also all other blasphemies of profane Christians, whether occasioned by ill opinions fixed in the mind, or other sudden emotions of a vicious temper. This we learn from Synesius's way of proceeding against Andronicus, the oppressing governor of Ptolemais. He admonished him for his other crimes, while there was any hope of making a just impression on him: but when he added blasphemy to all the rest, presuming to say, "No man should escape his hands, though he laid hold of the

ⁱ Chrysostom. Homil. xxii. de Ira, tom. i. p. 277. B 9. (p. 245, edit. Francof.)
'Ὡς τὸν πορνεύοντα καὶ τὸν βλασφημοῦντα ἀμήχανον μετασχεῖν τῆς ἱερᾶς
τραπέζης, κ. τ. λ.

^k Chrysost. Homil. ii. de Fato, tom. i. p. 811. B 1. (p. 717, edit. Francof.) 'Ὁ κα-
κολογῶν πατέρα ἢ μητέρα, θανάτῳ τελευτάτω, φησὶν, ἐπὶ τῆς παλαιᾶς ὁ νόμος
ἔκειτο. . . τί οὖν ἂν εἴποιμεν περὶ τῶν νῦν ἐν τῇ χάριτι, καὶ τῇ τῶν πραγμά-
των ἀληθείᾳ, καὶ τῇ τοσαύτῃ γνώσει, οὐχὶ πατέρα καὶ μητέρα κακολογούντων,
ἀλλ' αὐτὸν τὸν τῶν ὅλων θεόν; τίς τοὺς τοιοῦτους δέξεται τιμωρία; ποῖα τῷ
μέτρῳ τῆς κακίας διαρκέσει κόλασις; ποῖος δὲ πυρὸς ποταμός, ποῖος σκῶληξ
ἀτελεύτητος, ποῖον σκότος ἐξώτερον, ποῖα δεσμά, ποῖος βρυγμός, ποῖος
κλαυθμός; πάντα ἐλάττω τὰ βασανιστήρια, καὶ τὰ θντα καὶ τὰ μέλλοντα,
τῆς οὕτω διακειμένης ψυχῆς, τῆς πρὸς τοσοῦτον κακίας κατενεχθείσης. . . Οὐ
γάρ ἐστιν, οὐκ ἐστιν ταύτης ἁμαρτία χείρων, ἀλλ' οὐδὲ ἴση, ἀλλὰ καὶ προσθήκη
κακῶν τοῦτό ἐστιν, καὶ ὃ ἅπαντα συγχεῖ, καὶ ἀσύνγνωστον ἔχει κόλασιν, καὶ
ἀφόρητον τιμωρίαν.

very foot of Christ ;” Synesius thought he was no longer to be admonished, but to be cut off as a putrefied member ; and accordingly he proceeded to pronounce against him that famous excommunication¹ which we have had so often occasion to mention, as the most formal sentence that occurs in ancient story. I only add, that the civil laws set a particular mark upon this crime. For by the laws of Justinian^m blasphemy is reckoned a capital offence, to be punished with death. And by the former laws, since heresy was reputed blasphemy against God, all the penalties inflicted on heretics (one of which was in some cases death also) must be supposed to be punishments awarded by law to this sort of blasphemers.

SECT. III.—*The Blasphemy against the Holy Ghost, what notion the ancients had of it: and what censures they inflicted on it.*

Another sort of blasphemy was, the blasphemy against the Holy Ghost, of which I must be a little more particular, because the sense of the ancients concerning it is not very commonly understood. Some apply it to the great sin of lapsing into idolatry and apostasy, and denying Christ in time of persecution. Thus Cyprian understands it, when heⁿ says, “They who commit idolatry by the violence of persecution, know their offence to be a very great crime, seeing our Lord and judge has said, ‘Whosoever shall confess me before men, him will I confess before my Father which is in heaven. But he that denieth me, him will I also deny.’ And again, ‘All sins and blasphemies shall be forgiven to the sons of men: but he that blasphemeth against the Holy Ghost, shall not have

¹ Synes. Epist. lviii. p. 198. See Book xvi. c. ii. § viii. vol. v. p. 461.

^m Justin. Novell. lxxvii. *Εἰ αὖ κατ' ἀνθρώπων γινόμεναι βλασφημίαι ἀνεκδίκητοι οὐ καταλιμπάνονται, πολλῶ μᾶλλον ὁ εἰς αὐτὸ τὸ θεῖον βλασφημῶν ἀξιώς ἐστι τιμωρίας ὑποστῆναι.* (Amstel. 1673. p. 110.)

ⁿ Cypr. Epist. x. (xvi. Oxon. 1682. p. 36.) (p. 195, edit. Amstelod. 1700.) *Summum delictum esse, quod persecutio committi cōgit, sciunt ipsi etiam, qui commiserunt; quum dixerit Dominus et judex noster, ‘Qui me confessus fuerit coram hominibus, et ego illum confitebor coram Patre meo, qui est in coelis. Qui autem negaverit, et ego illum negabo.’ Et iterum dixerit, ‘Omnia peccata remittentur filiis hominum et blasphemiae. Qui autem blasphemaverit Spiritum sanctum, non habebit remissionem, sed reus est aeterni peccati.’*

forgiveness; but is guilty of eternal sin.” St. Hilary^o gives the same account of this blasphemy, making it to consist in denying Christ to be God. And therefore he also charges the Arians and all other such heretics with this blasphemy,^p because their doctrine robbed Christ of his divinity, and denied him to be of the same substance with the Father, however they venerated him as God, and ascribed the name of God to him upon the account of his admirable works and glorious operations. Athanasius, and the author of the questions to Antiochus under his name, are of the same opinion. Athanasius has a particular discourse upon this subject, where he both notes the errors of Origen and Theognostus upon it, and delivers his own opinion in opposition to them. They said,^q “That all they who had received the gifts of the Holy Ghost in baptism, and afterward run into sin, committed the unpardonable sin against the Holy Ghost.” Which he refutes both from the practice of St. Paul, who received the incestuous Corinthian and other great sinners to pardon; and also from the practice of the Church in opposition to the Novatians. “Why then, (says he,)’ are we angry at Novatus for taking away repentance, and saying, there is no pardon for those that sin after baptism?” His own opinion he delivers after^r this

^o Hilar. in Matth. can. xxxi. p. 184. Sciebat exterrendos, fugandos negaturos: sed quia Spiritus blasphemia nec heic nec in aeternum remittitur, metuebant, ne Deum abnegarent, quem cæsum et consputum et crucifixum essent contemplaturi. Quæ ratio servata in Petro est, qui quum negaturus esset, ita negavit, ‘Nōh novi hominem.’

^p Hilar. ibid. can. xii. p. 164. Christo aliqua deferre, negare quæ maxima sunt; venerari tamquam Deum, Dei communione spoliare; hæc blasphemia Spiritus est: ut quum per admirationem operum tantorum Dei nomen detrahare non audeas, generositatem ejus, quam confiteri es coactus in nomine, abnegata paternæ substantiæ communione decerpas.

^q Athan. in illud, Quicumque dixerit verbum, tom. i. p. 971. (702, 703.)

^r Ibid. (p. 704.) Τι δὲ καὶ Νováτῳ μεμóμεθα ἀναιροῦντι τὴν μετάνοιαν, καὶ φάσκοντι μηδεμίαν συγγνώμην ἔχειν τοὺς μετὰ τὸ λουτρὸν ἁμαρτάνοντας; εἰ δὲ τοὺς μετὰ τὸ λουτρὸν ἁμαρτάνοντας εἴρηται τὸ ῥητόν; (p. 973. D 7.)

^r Ibid. (Colon. 1686. vol. i. p. 975. D 6.) (p. 706. d. edit. Paris. 1698.) Ἐπειδὴν . . . εἰς μαρίαν τραπῶσι, καὶ αὐτὸν τὸν ἐν τῷ σώματι ὄντα λόγον τέλειον ἀρνήσονται, ἡ καὶ τὰ τῆς Θεότητος ἔργα τῷ διαβόλῳ καὶ τοῖς τούτου δαίμοσιν ἀναφέρουσιν, εἰκότως ἀσύγνωστον ἔχουσι τὴν ἐκ τῆς τοιαύτης ἀσιβείας ἐπιτιμίαν· τὸν τε γὰρ διάβολον εἰς Θεὸν ἐλογίσαντο, καὶ τὸν ἀληθινὸν καὶ ὄντως ὄντα Θεὸν, οὐδὲν πλεον ἐν τοῖς ἔργοις ἔχειν τῶν δαιμόνων ἡγήσαντο.—

manner: "The Pharisees in our Saviour's time, and the Arians in our days, running into the same madness, denied the real word to be incarnate, and ascribed the works of the Godhead to the devil and his angels; and therefore justly undergo the punishment, which is due to this impiety, without remission. For they put the devil in the place of God, and imagined the works of the living and true God, to be nothing more than the works of the devils. Which was the same thing, as if they had said, that the world was made by Beelzebub, that the sun arose at his command, and the stars in heaven moved by his direction. For as the one were the works of God, so were the other: and if the one were done by Beelzebub, so were the other also. For this reason, Christ declared their sin unpardonable, and their punishment inevitable and eternal." In another place^a he says, "They who spake against Christ, considering him only as the Son of man, were pardonable; because in the beginning of the Gospel, the world looked upon him only as a prophet, not as God, but as the Son of man: but they who blasphemed his divinity after his works had demonstrated him to be God, had no forgiveness, so long as they continued in this blasphemy. But if they repented, they might obtain pardon: for there is no sin unpardonable with God to

P. 976. D. Ἴσον γὰρ ἦν αὐτοὺς τολμᾶν καὶ εἰπεῖν, ὁρῶντας τὴν τοῦ κόσμου τάξιν, καὶ τὴν εἰς αὐτὸν πρόνοιαν, ὅτι καὶ ἡ κρίσις ὑπὸ τοῦ Βεελζεβοὺλ γέγονε· καὶ ὁ ἥλιος ὑπακούων τῷ διαβόλῳ ἀνατέλλει, καὶ δι' αὐτὸν περιπολεῖ τὰ ἀστροὶ ἐν τῷ οὐρανῷ· καὶ γὰρ ὡς περ ταῦτα τοῦ Θεοῦ, οὕτω ἀκείναι τοῦ Πατρὸς ἦν ἔργα. . . ὅθεν ἀκολούθως ὁ Σωτὴρ δὲ σὺγγνωστα καὶ ἀφυστα βλασφημεῖν αὐτοὺς ἀπεφύνατο.

^a Athan. de communi Essentia trium Personarum, (Colon. tom. i. p. 237. C 2.) (tom. ii. p. 26, edit. Paris. 1698.) Οἱ μὲν τῇ σαρκὶ αὐτοῦ, ἤγονν τῷ Υἱῷ τοῦ ἀνθρώπου, προσκείμενοι, προφήτην αὐτὸν, ἀλλ' οὐ Θεὸν εἶναι ἐνόμιζον· οἱ καὶ συγγνώμην ἔδωκεν· ἀρχὴ γὰρ ἦν τοῦ κηρύγματος, καὶ οὕτω ἦν χωρῶν [αἱ. οὕτω ἰχώρει] ὁ κόσμος, Θεὸν πιστεύειν φαινόμενον ἀνθρώπων· διὸ καὶ φησιν ὁ Χριστὸς· ὅτι ὃς ἐὰν εἴπῃ λόγον κατὰ τοῦ Υἱοῦ τοῦ ἀνθρώπου, εἴτ' οὖν τοῦ σώματος αὐτοῦ, ἀφεθήσεται αὐτῷ. . . οἱ δὲ εἰς τὸ Πνεῦμα τὸ ἅγιον, εἴτ' οὖν εἰς τὴν τοῦ Χριστοῦ θεότητα βλασφημήσαντες, καὶ λέγοντες, ὅτι, ἐν Βεελζεβοὺλ, τῷ ἀρχόντι τῶν δαιμονίων, ἐκβάλλει τὰ δαιμόνια· τοῦτοις, φησὶν, οὐκ ἀφεθήσεται, οὐδὲ ἐν τῷ νῦν αἰῶνι, οὐδὲ ἐν τῷ μέλλοντι· καὶ πάλιν σημειώσασθαι χρῆ, ὅτι οὐκ εἶπεν ὁ Χριστὸς τῷ βλασφημήσαντι καὶ μετανοοῦντι, οὐκ ἀφεθήσεται· ἀλλὰ τῷ βλασφημοῦντι, εἴτ' οὖν, τῷ ἐν τῇ βλασφημίᾳ ἐπιμένοντι· ἐπειδήπερ οὐκ ἔστιν ἁμαρτία ἀσυγχώρητος παρὰ τῷ Θεῷ, ἐν τοῖς γνησίως, καὶ κατ' ἀξίαν μετανοοῦσιν.

them who truly and worthily repent." And the same is said by the author of the questions to Antiochus^t under his name. St. Ambrose also defines this sin to be "denying the divinity of Christ;"^u whoever does not confess God in Christ, and Christ to be of God and in God, deserves no pardon.

Some again make it to consist in denying the divinity of the Holy Ghost. Thus Epiphanius^x brings the charge against the Pneumatomachi, or Macedonian heretics, whose error consisted particularly in opposing the Godhead of the Holy Ghost, and making him a mere creature. He says, "All heretics blaspheme and deny the truth, some more, some less: as these Pneumatomachi did, blaspheming the Lord and the Holy Spirit, and having pardon of sins neither in this world, nor the world to come." He shows how they were not pardoned in this world; because their doctrine was condemned by the Church in the Council of Nice, and their persons anathematized or cast out of the communion of the Church. But then as they might be admitted to communion again upon their repentance, so we must suppose, he means, their sin was capable of pardon in the next world upon the same condition, and only unpardonable upon the supposition of obstinacy and continuance in it without repentance. St. Ambrose^y also in his treatise of the Holy Ghost, writing

^t Quæst. et respons. ad Antioch. quæst. lxxi. tom. ii. p. 358, edit. Paris. 1698.

^u Ambros. Comment. in Luc. lib. vii. c. xii. tom. v. p. 108.

^x Epiphani. Hæres. lxxiv. Pneumatom. n. xiv. (Paris. 1622. vol. i. p. 987. C 5.) 'Απεδείξαμεν ἀλλοτριᾶς οὐσας τῆς ἀληθείας, καὶ ἐκάστην αὐτῶν βλασφημοῦσαν, καὶ ἀρνούμενην τὴν ἀλήθειαν, πάντε ἐν βραχεῖ, πάντε ἐν πολλῷ· ὡς καὶ οὗτοι [Πνευματομάχοι] μάτην εἰς τὸν Κύριον βλασφημοῦντες, καὶ εἰς τὸ ἅγιον Πνεῦμα, καὶ μὴ ἔχοντες μῆτε ἐνταῦθα, μῆτε ἐν τῷ μέλλοντι αἰῶνι, κατὰ τὰ ὑπὸ Κυρίου εἰρημένα, ἄφεσιν ἁμαρτιῶν, διὰ τὴν εἰς τὸ ἅγιον Πνεῦμα βλασφημίαν, κατακατηθίνετες ὑπ' αὐτῆς τῆς ἀληθείας δίκην κεράστου δεινοῦ μονοκέρωτος.

^y Ambros. de Spirit. Sancto, lib. i. c. iii. (Paris. 1836. vol. iv. p. 9.) ' Qui blasphemaverit in Filium hominis, remittetur ei: qui autem blasphemaverit in Spiritum sanctum, nec hic nec in futurum remittetur ei: ' diligenter advertite. Numquid alia est offensa Filii, alia Spiritus sancti? Sicut enim una dignitas, sic una injuria. Sed si quis, corporis specie deceptus humani, remissius aliquid sentit de Christi carne, quam dignum est (neque enim vilis nobis debet videri, quæ aula virtutis, fructus est Virginis) habet culpam; non est tamen exclusus a venia, quam fide possit adsciscere. Si quis vero sancti Spiritus dignitatem, majestatem, et

against the same heretics, charges them as guilty of this blasphemy against the Holy Ghost, for denying the divinity of his person. And the same charge is brought against them by Philastrius,^z when he says, "The Lord declared that all sins should be forgiven unto men, beside the blasphemy against the heavenly essence of the Holy Spirit."

Philastrius^a brings the charge in general against all heretics, as blasphemers of the Holy Ghost. And St. Ambrose does the same,^b but then he does not assert the sin to be absolutely unpardonable, but exhorts them to return to the Church, with hopes of obtaining mercy and forgiveness.

Others place this sin in a perverse and malicious ascribing the works of the Holy Spirit to the power of the devil. And some of these suppose the malignity of it to consist in doing this against knowledge and manifest convictions of conscience, which renders them self-condemned, and their sin simply and absolutely unpardonable. The author of the Questions upon the Old and New Testament, under the name of St. Austin,^c

potestatem abneget sempiternam, et putet non in Spiritu Dei ejici dæmonia, sed in Beelzebub; non potest ibi exoratio esse veniæ, ubi sacrilegii plenitudo est; quia qui Spiritum negavit, et Deum Patrem negavit et Filium; quoniam idem est Spiritus Dei, qui Spiritus est Christi.

^z Philastr. de Hæresibus, c. xx. Bibl. Patr. tom. iv. p. 17. (tom. v. p. 708, edit. Lugdun. 1677.)

^a Philastr. *ibid.* c. xliii. (p. 711.) Photinus ergo laudandus est hæreticus, qui Christum Dominum negat esse ante sæcula cum Patre; et omnis hæresis, quæ blasphemat aut in Patrem, aut in Filium, aut in Spiritum.

^b Ambros. de Pœnitent. lib. ii. c. iv. vol. iv. p. 108. Eos quoque adserit diabolico uti spiritu, qui separarent ecclesiam Domini; ut omnium temporum hæreticos et schismaticos comprehenderet, quibus indulgentiam negat. . . Revertimini ad ecclesiam, si qui vos separastis impie. Omnibus enim conversis pollicetur veniam, &c.

^c Aug. Quæst. in Vet. et Nov. Test. quæst. cii. tom. iv. p. 452. (p. 786, edit. Basil. 1569.) (Bened. 1700. fol. iii. Append. 80. B.) Non errore peccaverunt Judæi in Spiritum sanctum, sed malevolentia: scientes enim prudentesque opera, quæ videbant in gestis Salvatoris Dei esse, ut populum a fide ejus averterent, hæc simulabant esse principis dæmoniorum. Hinc est, unde dicit eis Dominus, 'Vos habetis clavem scientiæ, et nec vos intratis, nec alios sinitis intrare.' Hæc ergo sententia contra malevolos prolata est, quibus remedium inveniri non potest ut salventur. Nihil est enim hoc crimine gravius: fingit enim falsum esse, quod scit esse verum. . . Non ergo dignum est, istis peccatum hoc umquam debere remitti, qui conscientia sua teste, Deo cui se devotos dicebant, ausi sunt repugnare.

who is supposed to be one Hilary, a Roman deacon, expressly delivers his opinion after this manner: "The Jews," says he, did not sin against the Holy Ghost out of ignorance, but maliciousness. For they knew the works which our Saviour did, to be the true works of God: but to divert the people from believing on him, they pretended against their own knowledge and conscience to say, 'That they were the works of the prince of devils.' Upon which account our Lord said to them, 'Ye have the key of knowledge, and ye neither enter yourselves, nor suffer others to enter.' That sentence, then, was pronounced against the malignant, for whom there is no remedy to be found to bring them to salvation. For this is the greatest of all sins; pretending that to be false which men know to be true, and denying the wonderful works of God against their own knowledge and conscience."

But in two things, this author is singular. 1. In saying the Jews acted against knowledge and conscience. For St. Austin^d expressly says, "They did it in ignorance, by that blindness which happened to Israel in part, till the fulness of the Gentiles be come in." And it seems evident from those words of St. Peter in his sermon to them (Acts iii. 17), 'I wot, brethren, that in ignorance ye did it, as did also your rulers.' 2. In that he makes their sin simply and absolutely unpardonable, which the ancients generally do not, save only when it is accompanied with insuperable obstinacy and final impenitency, which in the nature of the thing can have no pardon. For all others among the ancients suppose it possible for men to repent of this sin, and thereby make themselves capable of pardon, though with great difficulty; and that the unpardonableness of it arises from men's own obstinacy and impenitency only, which makes them liable to punishment both in this world and the world to come. Thus St. Chrysostom delivers his opinion in his Comment^e upon the words of

^d Augustin. Exposit. in Roman. tom. iv. p. 365. (p. 1187, edit. Basil. cit.) Quæri potest, utrum scirent Judæi per Spiritum sanctum operari Dominum, quando eum in principe dæmoniorum dæmonia excludere blasphemabant? Miror autem, quomodo possent in illo Spiritum sanctum cognoscere, quum ipsum Dominum Filium Dei esse nescirent: in illa scilicet cæcitate, quæ ex parte in Israël facta est, donec plenitudo gentium intraret. (Bened. iii. 683. A 9.)

^e Chrysost. Hom. xlii. in Matth. xii. p. 391. A 5. (p. 745, edit. Francof.) 'H τοῦ

our Saviour: "Is there no remission for those who repent of their blasphemy against the Spirit? How can this be said with reason? For we know it was forgiven to some that repented of it. Many of those Jews which blasphemed the Holy Ghost did afterwards believe, and all was forgiven them. What is therefore the meaning of it? That it is a sin less capable of pardon than all others. And 'unless they repented of it' (so Anianus translates it) they should be punished in both worlds, and have pardon in neither." Which he observes to be the difference between this kind of sinners and many others. For some sinners are punished both in this world and the next; others, only in this world; others, only in the next; and others, neither in this world nor the next. He gives examples of all these. "Some are punished both here and hereafter; as these blaspheming Jews: for they suffered vengeance here in the great calamities which befel them in the destruction of Jerusalem: and hereafter they must undergo intolerable torments, as the men of Sodom, and many others. Some suffer only in the next world, as the rich man who is tormented in flames, and not master of so much as a drop of water to cool his tongue. Some suffer only in this world, as

Πνεύματος βλασφημία οὐκ ἀφεθήσεται, [οὐδὲ] μετανοοῦσι; καὶ πῶς ἂν ἔχωι τοῦτο λόγον; καὶ γὰρ καὶ αὐτὴ ἀφέθη μετανοήσασιν· πολλοὶ γοῦν τῶν ταῦτα εἰρηκότων ἐπίστευσαν ὕστερον, καὶ πάντα αὐτοῖς ἀφέθη· τί οὖν ἐστὶν ὃ φησιν; ὅτι ὑπὲρ πάντα αὕτη ἡ ἁμαρτία ἀσύγγνωστος. τί δήποτε; ὅτι αὐτὸν μὲν ἡγνόνουν, ὅστις ποτε ἦν· τοῦ δὲ Πνεύματος ἱκανὴν εἰλήφασι πείραν. καὶ γὰρ καὶ οἱ προφήται δι' αὐτοῦ ἐφθέγγαντο, ἅπερ ἐφθέγγαντο, καὶ πάντες δὲ οἱ ἐν τῇ παλαιᾷ μεγίστην περὶ αὐτοῦ εἶχεν ἔννοιαν· ὁ τοίνυν λέγει, τοῦτό ἐστιν. ἔστω, ἐμοὶ προσπαίετε διὰ τὴν σάρκα τὴν περικειμένην· μὴ καὶ περὶ τοῦ Πνεύματος ἔχετε εἰπεῖν, ὅτι ἀγνοοῦμεν αὐτό; διὰ δὲ τοῦτο ἀσύγγνωστος ὑμῖν ἐσται ἡ βλασφημία, καὶ ἐνταῦθα καὶ ἐκεῖ δώσετε δίκην. . . . Εἰ γὰρ καὶ ἐμὲ λέγετε ἀγνοεῖν· οὐ δὴπου κακίον ἀγνοεῖτε, καὶ ὅτι τὸ δαίμονας ἐκβάλλειν καὶ ἰάσεις ἐπιτελεῖν τοῦ ἁγίου Πνεύματος ἐστὶν ἔργον. οὐκ ἄρα ἐμὲ ὑβρίζετε μόνον, ἀλλὰ καὶ τὸ Πνεῦμα τὸ ἄγιον διὸ καὶ ἀπαραίτητος ὑμῖν ἡ δίκη καὶ ἐνταῦθα καὶ ἐκεῖ. Καὶ γὰρ τῶν ἀνθρώπων, οἱ μὲν καὶ ἐνταῦθα κολάζονται καὶ ἐκεῖ· οἱ δὲ ἐνταῦθα μόνον· [οἱ δὲ ἐκεῖ μόνον]· οἱ δὲ οὐδὲ ἐνταῦθα, οὐδὲ ἐκεῖ· ἐνταῦθα μὲν καὶ ἐκεῖ, ὡς οὗτοι αὐτοί· καὶ γὰρ καὶ ἐνταῦθα ἔδοσαν δίκην, ἡνίκα ἔπαθον τὰ ἀνήκεστα ἐκείνα τῆς ὧδε πόλεως ἀλούσεως· καὶ ἐκεῖ χαλεπωτάτην ὑπομενοῦσιν, ὡς οἱ Σοδόμων πολῖται, ὡς ἕτεροι πολλοί· ἐκεῖ δὲ μόνον, ὡς ὁ πλοῦσιος ὁ ἀποπηγανίζομενος καὶ οὐδὲ σταγόνος κύριος ὢν· ἐνταῦθα δὲ, ὡς ὁ πεπορνευκὸς παρὰ Κορινθίους· οὔτε δὲ ἐνταῦθα, οὔτε ἐκεῖ, ὡς οἱ ἀπόστολοι, ὡς οἱ προφῆται, ὡς ὁ μακάριος Ἰωβ· οὐ γὰρ δὴ κολάσεως ἦν, ἅπερ ἐπασχον, ἀλλ' ἀγώνων καὶ παλαισμάτων.

he that committed fornication among the Corinthians : and others neither in this world nor the next, as the Apostles, and Prophets, and holy Job, and such like. For their passions were not punishments for their sins, but only exercises and combats to crown them with victory." Now he supposes that blasphemy against the Holy Ghost is a sin of the first kind ; that is, one of those for which men, if they do not timely repent of it, shall suffer both here and hereafter, as the men of Sodom ; in which respect it is said never to have forgiveness, neither in this world nor the next, because it is punished in both. Vid. Chrys. Hom. 3. in Lazarum, t. 5. p. 69 ; where he uses the same distinction of sins punished only in this world, or only in the next, or else as the sins of Sodom, punished in both.

Victor of Antioch, who was cotemporary with St. Chrysostom, gives the same account of the unpardonableness of this sin. He says,^f " When our Saviour discourses of the sin of blasphemy, he neither determines blasphemy against the Son to be absolutely remissible, nor the blasphemy against the Holy Ghost to be simply irremissible ; as if there was no place of repentance left for such blasphemers when they were disposed to return to a sober mind : but only by drawing a comparison betwixt the one and the other, he shows that the blasphemy against the Son ought to be esteemed the lesser of the two, because it seems to be levelled against him only as man."

Now from what has hitherto been discoursed, it is easy to conceive after what manner the discipline of the Church was exercised upon such sort of blasphemers. For first, if all apostates, and idolaters, and such as denied Christ, or blasphemed him, or denied his divinity, or the divinity of the

^f Victor. commentar. in Marc. iii. Biblioth. Patr. tom. i. p. 411. (tom. iv. p. 377. h. edit. Lugdun. 1677.) Quum de blasphemie peccato Salvator noster disserit, neque convicium in Filium absolute remissibile, neque blasphemiam rursus in Spiritum sanctum irremissibilem simpliciter definire vult : quasi nullus prorsus ejusmodi blasphemis, dummodo ad sanam mentem redire animum induxerint, poenitentiae locus relictus sit ; verum comparatione quadam inter hanc et illam facta, indicat eam, quae cadit in Filium, tamquam quae in hominem proxime ferri videatur, multo minorem censi illa, quae temerario nefarioque ausu effunditur in Spiritum sanctum.

Holy Ghost, and such as fell into heresy or schism, were reputed in some measure to blaspheme the Holy Ghost ; then the same punishments that were inflicted on all such offenders, must consequently be reckoned the punishments of those that blasphemed the Holy Ghost. And since we have seen those punishments under those respective heads before, we need inquire no farther after them in this place ; but only observe, secondly, that the ancients, as many at least as went upon this supposition, that the blasphemy against the Holy Ghost was committed in these several crimes, could not imagine it to be a sin simply and absolutely incapable of pardon : because they did not shut the door of repentance to any such offenders, or reckon them altogether reprobate and desperate ; but invited them to repent, and prayed for their conversion, and received them again to peace and communion upon their humble confession and evidences of a true repentance. Which argues, that they did not believe the sin against the Holy Ghost to be altogether unpardonable, but only to the impenitent ; since they granted pardon to the penitent in this world, and gave them hopes of obtaining pardon from God in the world to come.

It is true, indeed, St. Austin and several others in the Latin Church seem to say, that this sin is altogether unpardonable both in this world and the next. But if we rightly take their meaning, they differ not at all from the former. For they suppose that no man perfectly commits the sin against the Holy Ghost, but he that finally dies obdurate, and in resistance to all the gracious motions and operations of the Holy Spirit to the end of his days : in which case it is but natural to conclude from the nature of the thing, that such men can have no pardon for their sin, neither in this world nor the world to come : not because anything they do in their lifetime, makes it an unpardonable sin in itself ; but because they wilfully continue impenitent to the last, and so make it impossible and impracticable, upon the principles of the Gospel, to obtain pardon either of God or his Church, in this world or the world to come : since the covenant of grace and pardon only respects those who embrace it in this life, and not such as put off repentance to another world, where they will repent

without remedy, or, in the apostle's words, 'find no room for repentance,' or change of God's purposes, 'though they seek it carefully with tears.'

In this sense, Fulgentius understands our Saviour's words, as menacing punishment to those that obstinately continue in their wickedness, and let judgment overtake them in their sins. He says, "Repentance is of advantage to every man in this life, whatever time he truly turns to God, although he be the greatest of sinners, although he be grown old in sin: but if he continue obdurate to the last, there is no mercy for him. For as mercy will receive and absolve those that are converted,^s so justice will repel and punish the obdurate. For they are those who sin against the Holy Ghost, and shall not have remission of sins either in this world or the world to come." The author of the book of True and False Repentance,^h under the name of St. Austin, says the same; "That they only sin against the Holy Ghost who continue impenitent unto death. For the Holy Spirit is love, who gives his grace to us as an earnest. He therefore that sins, and desires not to recover his grace, nor ever after is concerned to be loved by him, nor seeks to him from whom he received his earnest, sins against the Holy Spirit, and shall never obtain pardon, either living or after death; but no one sins against the Holy Spirit that flies unto him for mercy." And therefore he says, "Our Saviour's words to the Jews were rather an admonition to them not to continue in sin; because if they went on as they had begun, their blasphemy would lead them unto death." Bacchiarius,ⁱ an African writer about the time

^s Fulgent. de fide ad Petrum, c. iii. ap. Augustin. tom. iii. p. 224. (edit. Basil. 1569.) Sicut enim misericordia suscipit absolutique conversos, ita justitia repellat punietque obduratos. Ii sunt, qui peccantes in Spiritum sanctum, neque in hoc sæculo, neque in futuro remissionem accipient peccatorum.

^h Augustin. de vera et falsa Pœnitent. c. iv. (Bened. 1700. vol. vi. p. 714. B 9.) Soli peccant in Spiritum sanctum, qui impenitentes existunt usque ad mortem. Spiritus enim sanctus, caritas est Divinitatis, amor est genitoris et genitæ veritatis, qui suam gratiam nobis tribuit sui ipsius arrham. Qui igitur peccat, et gratiam suam recuperare non amat, et numquam curat ab eo diligi, qui totus est amor et caritas, nec ad eum tendit unde sumsit arrham, in Spiritum sanctum peccat, et numquam post mortem, sicut nec vivens consequetur veniam: sicque nullus peccat in Spiritum sanctum, qui fugit ad ipsum.

ⁱ Bacchiar. Epist. de recipiendis lapsis, Biblioth. Patr. tom. iii. p. 133. (tom.

of St. Austin, explains himself after the same manner. He says, "This sin consists in such a despair of God's mercy as makes men give over all hopes of attaining by the power of God to that state and condition from which they are fallen, and so consequently go on in sin without repentance to their life's end."

St. Austin speaks often of this crime; and he places it in a continual resistance of the motions and graces of the Holy Spirit, by an invincible hardness of heart, and final impenitency to the end of a man's days. "Some," says he,^k "placed it in the commission of mortal sins after baptism, and after having received the Holy Ghost, as doing despite to so great a gift of Christ, by falling into such sins as adultery, murder, apostasy, or separation from the catholic Church." But this, he thinks, cannot be the meaning of it; because the Church allows room for repentance for all sins, and corrects heretics only with this intent, that they may repent. He says further,^l

vi. p. 1180. g. edit. Lugdun. 1677.) Ego dico hoc ipsum, desperare de Domino, in Spiritum sanctum esse peccare, quia Dominus est Spiritus; et ideo non remittitur ei, quia non crediderit Dominum reddere sibi posse quod perdidit.

^k Augustin. serm. xi. de verbis Domini, cap. iii. (tom. x. p. 38, 39, edit. Basil. 1569.) (Bened. Antverp. 1700. vol. v. p. 271. B 6.) Nonnullis videtur eos tantummodo peccare in Spiritum sanctum, qui lavacro regenerationis abluti in ecclesia, et accepto Spiritu sancto, velut tanto postea dono Salvatoris ingrati, mortifero aliquo peccato se immergerint: qualia sunt vel adulteria, vel homicidia, vel ipsa discessio, sive omni modo a nomine Christiano, sive a catholica ecclesia. Sed iste sensus unde probari possit, ignoro: quum et poenitentiae quorumque criminum locus in ecclesia non negetur; et ipsos hæreticos ad hoc utique corripiendos dicat apostolus; 'Ne forte det illis Deus poenitentiam ad cognoscendam veritatem, et resipiscant a diaboli laqueis, a quo captivi tenentur secundum ipsius voluntatem.'

^l Ibid. c. iii. (p. 38, 39, cit. edit.) (p. 270. F1.) Quidam hæretici ipsum omnino Spiritum sanctum vel non Creatorem, sed creaturam esse contendunt; sicut Ariani et Eunomiani et Macedoniani; vel eum prorsus ita negant, ut ipsum Deum negent esse Trinitatem, sed tantummodo esse Deum Patrem adseverant, et ipsum aliquando vocari Filium, aliquando vocari Spiritum sanctum; sicut Sabelliani, quos quidam Patripassianos vocant, ideo quia Patrem perhibent esse passum: cujus cum negant esse aliquem Filium, sine dubio negant esse Spiritum sanctum. Photiniani quoque Patrem solum esse dicentes Deum, Filium vero non nisi hominem, negant omnino esse tertiam personam Spiritum sanctum. Manifestum est igitur, et a paganis, et a Judeis, et ab hæreticis blasphemari Spiritum sanctum. Numquidnam ergo deserendi sunt, et sine ulla spe deputandi, quoniam fixa sententia est, 'Qui verbum dixerit contra Spiritum sanctum, non ei dimitti, neque in hoc sæculo, neque in futuro:' et illi soli existimandi sunt ab hujus gravissimi peccati reatu liberi,

“That it consists not in denying the divinity or person of the Holy Ghost, or believing him to be a creature, unless men persist in these errors to the end of their days. For many catholic Christians were once Jews, or Pagans, or heretics, such as the Arians, Eunomians, Macedonians, Sabellians, Patripassians, and Photinians, who all deny either the divinity or the personality of the Holy Ghost. And if all these who speak against the Holy Ghost have no forgiveness, in vain do we promise or preach to men, that they should turn to God, and obtain peace and remission of sins by baptism, or in the Church. For it is not said, with any exception, This sin shall not be forgiven, save only in baptism; but, ‘It shall not be forgiven, neither in this world, nor in the world to come.’” Hence he infers, that it is not all kind of blasphemy against the Holy Ghost, but a particular sort of blasphemy that is thus threatened. And that is final impenitency, or resisting to the uttermost the gracious offers of remission of sins made by the Holy Ghost. “This impenitency” is the blasphemy that has neither remission in this world, nor in the world to

qui ex infantia sunt catholici? Nam quicumque verbo Dei crediderunt, ut catholici fierent, utique aut ex paganis, aut ex Judeis, aut ex hæreticis, in gratiam Christi pacemque venerunt: quibus si non est dimissum quod dixerunt verbum contra Spiritum sanctum, inaniter promittitur et prædicatur hominibus, ut convertantur ad Deum, et sive in baptismo sive in ecclesia pacem remissionemque accipiant peccatorum.

^m Ibid. c. xiii. (p. 46, cit. edit.) (276. A.) Hæc omnino impoenitentia non habet remissionem, neque in hoc sæculo, neque in futuro: quia poenitentia impetrat remissionem in hoc sæculo, quæ valeat in futuro. § 21. Sed ista impoenitentia vel cor impoenitens, quamdiu quisque in hac carne vivit, non potest judicari. De nullo enim desperandum est, quamdiu patientia Dei ad poenitentiam adducit, nec de hac vita rapit impium, qui non mortem vult impii, quantum ut revertatur et vivat. Paganus est hodie: unde scis, utrum sit futurus crastino Christianus? Judeus infidelis est hodie; quid, si cras credat in Christum? Hæreticus est hodie: quid si cras sequatur catholicam veritatem? Schismaticus est hodie: quid si cras amplectatur catholicam pacem? Quid si isti, quos in quocumque genere erroris notas, et tamquam desperatissimos damnas, antequam finiant istam vitam, agant poenitentiam, et inveniant veram vitam in futuro? Proinde, fratres, etiam ad hoc vos admoneat, quod ait apostolus: ‘Nolite ante tempus quidquam judicare.’ Hæc enim blasphemia Spiritus, cui numquam est ulla remissio, (quam non omnem, sed quamdam intelleximus, eamque perseverantem duritiam cordis impoenitentia vel diximus vel invenimus, vel etiam quantum existimamus, ostendimus) non potest in quoquam, ut diximus, dum in hac adhuc vita est, deprehendi.

come. But of this impenitency no one can judge, so long as a man lives in this life. We are to despair of no man, so long as the patience of God leads him to repentance, and does not snatch away the sinner out of life, who 'would not the death of a sinner; but rather that he should return and live.' A man is a pagan to-day: but how knowest thou, but that he may become a Christian to-morrow? To-day he is an unbelieving Jew: but what if to-morrow he should believe in Christ? To-day he is a heretic: but what if to-morrow he should embrace the catholic truth? To-day he is a schismatic: but what if to-morrow he should return to the peace of the Church? What if they, whom you mark as immersed in any kind of error, and damn as desperate, should repent, before they end this life, and find true life in the world to come? 'Judge nothing, brethren, before the time.' For this blasphemy of the Spirit, which has no remission, and which we have showed to be a persevering hardness of an impenitent heart, cannot be descried in any man whilst he continues in this life." At last he concludes: "There is but one way to avoid the condemnation of this unpardonable blasphemy, which is, to beware of an impenitent heart, and to believe that repentance profits not but only in the catholic Church, where remission is granted, and the unity of the spirit is preserved in the bond of peace." St. Austin often repeats this notion, and he gives the same account of what the Apostle calls 'the sin unto death;' for which he forbids men to pray. He says, "It means that hardness and impenitency of heart, whereby men obstinately reject faith and charity, and remission of sins to their last hour." And whereas he had seemed

ⁿ Ibid. c. xxiv. (p. 55, cit. edit.) Unum suffugium est, ne sit irremissibilis blasphemia, ut cor impenitens caveatur, nec aliter poenitentia prodesse credatur, nisi ut teneatur ecclesia, ubi remissio peccatorum datur, et societas spiritus in pacis vinculo custoditur. (Bened. v. 282. D 4.)

^o August. de Corrupt. et Gratia, c. xii. (vol. x. p. 508. F 3.) Ego dico id esse peccatum [ad mortem] fidem quæ per dilectionem operatur, deserere usque ad mortem.—Epist. I. (ii. 504.) Hoc est autem duritia cordis usque ad finem hujus vite, qua homo recusat in unitate corporis Christi, quod vivificat Spiritus sanctus, remissionem accipere peccatorum.—Enchirid. cap. lxxxiii. Qui in ecclesia remitti peccata non credens, contemnit tantam divini muneris largitatem, et in hac obstinatione mentis diem claudit extremum, reus est irremissibili peccato in Spiritum sanctum, in quo Christus peccata dimittit. (Bened. vol. vi. p. 167: D 9.)

to say in one place,^p "That this blasphemy consisted in a malicious and envious opposition to brotherly charity, after a man had received the grace of the Holy Ghost;" he explains this in his *Retractations*,^q saying, "There ought to be added this condition, if he ends this wicked perverseness of mind: because we are not to despair of the very worst man, while he continues in this life; neither is there any imprudence in praying for him, of whom we do not despair." He confirms this notion again at large in his commentary upon the epistle to the Romans. Where he first gives this description^r of it:

^p August. de serm. Domini in monte, lib. i. c. xxii. (tom. iv. Opp. p. 1135, edit. Basil. 1569.) (Bened. vol. iii. Part 2. p. 142. C 10.) Nunc enim in Filium hominis dixerunt verbum nequam; et potest eis dimitti, si conversi fuerint, et ei crediderint, et Spiritum sanctum acceperint: quo accepto si fraternitati invidere, et gratiam quam acceperunt, oppugnare voluerint, non eis dimitti, neque in hoc sæculo neque in futuro.

^q *Retract.* lib. i. c. xix. (vol. i. p. 22. C 12.) Addendum fuit, si in hac tam acclerata mentis perversitate finierit hanc vitam: quoniam de quocumque pessimo in hac vita constituto non est utique desperandum; nec pro illo imprudenter oratur, de quo non desperatur.

^r Aug. *Exposit. in Rom.* i. tom. iv. p. 363. (p. 1182, edit. Basil.) Ille peccat in Spiritum sanctum, qui desperans vel irridens atque contemnens prædicationem gratiæ, per quam peccata diluuntur, et pacis, per quam reconciliamur Deo, detractat agere poenitentiam de peccatis suis, et in eorum impia atque mortifera quadam suavitate perdurandum sibi esse decernit, et in finem usque perdurat. (§ 15.) Pagani qui appellantur, etiam nunc totam nostram religionem, quia jam ferro et cædibus prohibentur, maledictis contumeliisque insectantur: et quidquid de ipsa Trinitate dicimus, negando et blasphemando contemnunt. Non enim excipiunt sibi Spiritum sanctum, quem venerentur, ut in cetera sæviant: sed simul adversus omnia, quæcumque sollicitate de trina Dei majestate loquimur, quanto possunt furore impietatis oblatrant. Nam neque de ipso Deo Patre digna sentiunt, quem partim sic penitus negant, partim sic fatentur, ut de illo falsa fingendo, non utique illum, sed sua figmenta venerentur. Multo magis ergo, quod de Filio Dei, vel de Spiritu sancto dicimus, suo impio more deridere, quam nostra pia societate colere maluerunt. Quos tamen, quantum possumus, adhortamur ad Christum cognoscendum, et per ipsum Patrem Deum, summoque et vero Imperatori militandum esse suademus; eosque, promissa impunitate præteritorum omnium peccatorum, invitamus ad fidem. Qua in re satis judicamus, etiam si quid adversus Spiritum sanctum in sua sacrilega superstitione dixerant, cum Christiani facti fuerint, sine ulla caligine dubitationis ignosci. Judei vero quales adversus Spiritum sanctum fuerint, testis est Stephanus, quem ipse Spiritu sancto plenum lapidaverunt, quum illa omnia quæ in eos dixit, ipse Spiritus dixerit. In quibus verbis apertissime dictum est Judeis, 'Vos semper restitistis Spiritui sancto.' In illo tamen numero Judæorum resistentium Spiritui sancto, et non ob aliud Stephanum vas ejus, nisi quod ipse eo plenus erat, lapidantium, etiam Paulus apostolus erat, in

“that man sins against the Holy Ghost, who despairing, or deriding, or condemning the preaching of grace, by which sins are washed away, and the preaching of peace, by which we are reconciled to God, refuses to repent of his sins, and resolves to continue hardening himself in the impious and deadly sweetness of them, and therein persists to his last end.” He then

manibus omnium quorum vestimenta servabat; quod ipse sibi postea etiam poenitendo increpat, eo ipso Spiritu jam plenissimus, cui primo inanissimus resistebat, et paratus jam lapidari pro talibus dictis, qualium prædicatorem ipse lapidaverat. Quid Samaritani? Nonne ita Spiritui sancto adversantur, ut ipsam prophetiam penitus conentur extinguere, quæ per Spiritum sanctum ministrata est? Quorum tamen saluti et ipse Dominus attestatur, in eo qui de decem leprosis mundatis solus reversus est ut ageret gratias, quum esset Samaritanus; et in illa muliere, cum qua ad puteum sexta hora loquutus est, et eis qui per illam crediderunt. Post Domini adscensionem, sicuti in Actibus Apostolorum scriptum est, quanta gratulatione sanctorum recipit Samaria verbum Dei? Simonem quoque Magum arguens Petrus apostolus, quod tam male de Spiritu sancto senserit, ut eum venalem putans pecunia sibi emendum poposcerit, non tamen ita de illo desperavit, ut veniæ nullum locum relinqueret: nam benigne etiam, ut eum poeniteret admonuit. Ipsa denique ecclesiæ catholicæ tam insignis auctoritas, quæ in eodem dono Spiritus sancti omnium sanctorum mater, toto fœcunda orbe diffunditur, cui umquam hæretico vel schismatico spem liberationis, si se corrigat, amputavit? cui placandi Dei aditum clausit? Nonne omnes ad ubera sua, quæ superbo fastidio reliquerunt, cum lacrimis revocat? Quis vero vel de principibus, vel de gregibus hæreticorum invenitur, qui non adversetur Spiritui sancto? Nisi forte quisquam tam perverse sentit, ut arbitretur eum teneri reum, qui adversus Spiritum sanctum aliquid dixerit; eum vero, qui adversus Spiritum sanctum multa fecerit, non teneri. Qui autem tanta evidentiâ contra Spiritum sanctum pugnant, quam illi, qui adversus ecclesiæ pacem superbissimis contentionibus sæviunt? Sed si de verbis quæstio est, quaero, utrum nihil dicant adversus Spiritum sanctum, quum alii eum, quod ad ipsum proprie pertinet, omnino non esse adseverent: sed ita esse unum Deum, ut idem ipse Pater, idem ipse Filius, idem ipse Spiritus sanctus appelletur. Alii fateantur quidem esse Spiritum sanctum; sed æqualem Filio, vel omnino esse Deum negent. Alii unam quidem et eandem Trinitatis substantiam esse fateantur, sed de ipsa divina substantia tam impie sentiant, ut eam commutabilem et corruptibilem putent: ipsumque Spiritum sanctum, quem Dominus discipulis se missurum esse promisit, non quinquagesimo die post ejus resurrectionem, sicut Apostolorum Acta testantur, sed post trecentos fere annos per hominem veniisse confingant. Alii similiter adventum ejus, quem tenemus, negent: et eum prophetas in Phrygia, per quos tanto post loqueretur, elegerisse contendant. Alii sacramenta ejus exsufflent, et baptizatos in nomine Patris et Filii et Spiritus sancti denuo baptizare non dubitent. Sed ne pergam per singula, quæ sunt innumerabilia, his certe omnibus quos pro tempore breviter attigi, ad sponsam Christi redeuntibus, et errorem atque impietatem poenitendo damnantibus, nulla catholica disciplina negandam ecclesiæ pacem, et claudenda viscera misericordiæ judicavit. (Bened. 1700. vol. iii. p. 679. C 1.)

shows by great variety of instances, that any other blasphemy against the Spirit is capable of pardon, except this which includes obduration to the last. The pagans daily blaspheme the whole Trinity, and the whole system of the Christian religion: and yet the Church makes no scruple to receive them to pardon of sins by baptism upon their conversion. The Jews are charged by Stephen for resisting the Holy Ghost; and yet Paul, who was then one of the number of those whom he so charged, was afterwards filled with the same Spirit, which he had resisted. The Samaritans opposed the Holy Ghost; and yet both Christ and his apostles attest to the conversion of many of them. Simon Magus had conceived very ill opinions of the Holy Spirit, so as to think his gifts might be purchased with money; yet St. Peter did not despair of him, so as to leave him no room for pardon, but kindly admonished him to repent. Neither does the catholic Church shut the gate of pardon to any heretics or schismatics, or leave them without hopes of appeasing God, upon their correction and amendment, though some of them deny the very being and person of the Holy Ghost; others make him a mere creature, and deny his Godhead; others make the substance of the whole Trinity mutable and corruptible; others deny the mission of the Holy Ghost upon the apostles, and make his first descent to be upon Montanus; and others despise his sacraments, and rebaptize those who were baptized before "in the name of the Father, Son, and Holy Ghost." Nay, he thinks some of those very Jews, to whom our Saviour gave a caution against this crime, afterward repented of their blasphemy, though proceeding from envy and malice: and that St. Paul may be reckoned one of that number; being a blasphemer, and a persecutor, and injurious, as they were, in ignorance and unbelief; and putting himself in the number of those who were sometimes foolish, disobedient, deceived, serving divers lusts and pleasures, living in envy and malice, hateful and hating one another. If therefore neither pagans, nor Hebrews, nor heretics, nor schismatics, yet unbaptized, are precluded from the sacrament of baptism, whatever opposition they have made to the Holy Ghost before, if they sincerely repent, and condemn their former life; if also they who have attained to

the knowledge of the truth, and are baptized, may, after they have fallen into sin and resisted the Holy Ghost, be restored to the peace of God by repentance; finally, if they, to whom our Saviour objected blasphemy against the Holy Ghost, might repent and be healed by flying to the mercy of God; what remains, but that by the sin against the Holy Ghost, which our Lord says, "Is never forgiven neither in this world nor the world to come," we should understand nothing else* but

* Aug. Expos. in Rom. i. tom. iv. p. 1188, seqq. edit. Basil. Si ex eo quoque hominum numero, quibus Dominus illud crimen objicit, veniens ad fidem Christi, et poenitendi cruciatibus edomita invidia salutem cum lacrimis poscens, sicut etiam nonnulli eorum fortasse fecerunt; quaero, utrum quisquam tanto errore crudescat, ut aut neget eos ad Christi baptismum admitti oportuisse, aut frustra admissos esse contendat? Nam si quis per invidiam opera divina blasphemat, quoniam bonis Dei, hoc est donis Dei malitia sua resistit, in Spiritum sanctum peccare, et propterea spem veniæ non habere existimandus est; attendamus, utrum ex eo numero fuerit apostolus Paulus? Dicit enim, 'Qui prius fui blasphemus, et persecutor, et injuriosus, sed misericordiam consequutus sum, quia ignorans feci in incredulitate.' An forte ideo non pertinuit ad hoc genus criminis, quia non erat invidus? Audiamus, quid alibi dicat: 'Fuimus enim,' inquit, 'et nos stulti aliquando et increduli, errantes, servientes voluptatibus et desideriis variis, in malitia et invidia agentes, abominabiles, invicem odio habentes.' (§ 22.) Si ergo nec pagani, nec Hebraei, nec hæretici, aut schismatici nondum baptizati, ad baptismum Christi aditus clauditur, ubi condemnata vita priore in melius commutentur; quamvis Christianitati et ecclesiæ Dei adversantes, antequam Christianis sacramentis abluerentur, etiam Spiritui sancto, quanta potuerunt infestatione restiterint: si etiam hominibus, qui usque ad sacramentorum perceptionem veritatis scientiam perceperunt, et post hæc lapsi Spiritui sancto restiterunt, ad sanitatem redeuntibus, et pacem Dei poenitendo quaerentibus, auxilium misericordiæ non negatur: si denique de illis ipsis, quibus blasphemiam in Spiritum sanctum ab eis prolatam Dominus objecit, si qui resipiscentes ad Dei gratiam confugerunt, sine ulla dubitatione sanati sunt; quid aliud restat, nisi ut peccatum in Spiritum sanctum, quod neque in hoc sæculo, neque in futuro dimitti Dominus dicit, nullum intelligatur nisi perseverantia in nequitia et in malignitate, cum desperatione indulgentiæ Dei? Hoc est enim gratiæ illius et paci resistere, de quibus nobis sermo nunc ortus est. Nam hinc licet advertere, etiam ipsis Judæis, quorum blasphemiam Dominus arguit, non fuisse clausum corrigendi se et poenitendi locum, quod idem Dominus in ea ipsa reprehensione ait illis, 'Aut facite arborem bonam, et fructum ejus bonum; aut facite arborem malam, et fructum ejus malum.' Quod utique nulla ratione diceretur eis, si propter illam blasphemiam jam commutare animum in melius, et recte factorum fructus generare non possent, aut frustra etiam sine peccati sui dimissione generarent. . . (§ 23.) Quum dixissent Judæi, quod in Beelzebub ejiceret dæmonia, misericorditer eos voluit admonere, ne verbum dicerent, et blasphemiam in Spiritum sanctum; hoc est, ne gratiæ Dei pacique resisterent, quam per Spiritum

perseverance in malignity and wickedness, with despair of the indulgence and mercy of God? For this is to resist the grace and peace of the Spirit, of which we are speaking. He says also, that our Saviour in the same place where he reproves the Jews for their blasphemy, intimates, that the door of repentance and amendment was not yet shut against them, when he he says, "Either make the tree good, and its fruit good; or else make the tree evil, and its fruit evil:" which could not with any reason have been said to them, if now for that blasphemy they could not have changed their mind for the better, and have brought forth the fruit of good works, or should in vain have brought them forth without remission of their sin. He therefore concludes, that they had not yet committed fully the unpardonable sin, but only begun it, in saying, "That he cast out devils by Beelzebub;" and that Christ admonishes

sanctum donare Dominus venerat. Non quia jam hoc fecerant, quod sibi neque in hoc sæculo neque in futuro dimitteretur; sed ne desperando de venia, aut quasi de sua justitia præsumendo, et pœnitentiam non agendo, aut perseverando in peccatis, hoc facerent: hoc modo enim dicerent verbum, hoc est blasphemiam in Spiritum sanctum, in quo Dominus signa illa propter largiendam gratiam pacemque faciebat, si perseverantia peccatorum ipsi gratiæ pacique resisterent. Verbum enim dicere, non ita videtur heic positum, ut tantummodo illud intelligatur, quod per linguam fabricamus, sed quod corde conceptum, etiam opere exprimimus. Sicut enim non confitentur Deum, qui tantum oris sono confitentur, non etiam bonis operibus: nam de his dictum est, 'Confitentur enim se nosse Deum, factis autem negant.' Ex quo manifestum est dici aliquid factis, sicut manifestum est negari aliquid factis. Et sicut illud quod ait apostolus, 'Nemo dicit Dominus Jesus, nisi in Spiritu sancto:' non potest recte intelligi, nisi in factis dicere intelligatur. Non enim hoc in Spiritu sancto dicere putandi sunt, quibus ipse Dominus dicit, 'Ut quid mihi dicitis, Domine, Domine, et non facitis quæ dico vobis?' et illud, 'Non omnis, qui mihi dicit, Domine, Domine, intrabit in regnum cœlorum.' Sic etiam qui hoc verbum, quod sine venia vult intelligi Dominus, in Spiritum sanctum dicit, hoc est, qui desperans de gratia et pace quam donat, in peccatis suis perseverandum sibi esse dicit, dicere intelligendus est factis: ut quomodo illi factis Dominum negant, sic isti factis dicant se in nulla vita sua et perditis moribus perseveraturos, et ita faciant, hoc est, perseverent. Quod si faciunt, quis jam miretur, aut quis non intelligat, et Dominum Jesum Christum per illam comminationem ad pœnitentiam vocasse Judæos, ut eis in se credentibus gratiam pacemque donaret: et huic gratiæ pacique resistentibus et hoc modo verbum atque blasphemiam in Spiritum sanctum dicentibus, hoc est, in peccatis suis desperata atque impia mentis obstinatione perseverantibus, et adversus Deum sine humilitate confessionis atque pœnitentiæ superbientibus, neque in hoc sæculo neque in futuro veniam posse concedi? (Bened. 1700. vol. iii. pt. 2. p. 683. D.)

them not to complete it, by resisting his grace and peace, either by despairing of pardon, or presuming on their own righteousness, or continuing impenitent, and persevering in their sins : for this was to speak the blasphemous word against the Holy Ghost, by which Christ wrought those miracles to bring them to his grace and peace. He observes here, that to speak blasphemy against the Holy Ghost, is not put to denote barely the uttering it with the tongue, but the conceiving it in the heart, and expressing it in actions. For as they are not properly said to confess God, who do it only with the sound of their lips, and not with their good works ; so he who speaks the unpardonable word against the Holy Ghost, is not presumed to say it perfectly, unless he do, as well as say it : that is, despair of the grace and peace which the Spirit gives, and resolve to persevere in his sins. That as the other deny God in their works, so these say by their works, that they resolve to persevere in an evil life and corrupt morals ; and so say, and so do, that is, continue in them to the end of their days. Which if they do, what needs any one wonder that their blasphemy should be unpardonable ? Or who is it now that cannot understand both that the Lord Jesus by that commination called the Jews to repentance, that he might grant them grace and peace by their believing on him ; and also how it becomes impossible, that they should have pardon either in this world or the world to come, who resist this grace and peace, and after this manner speak the word of blasphemy against the Holy Ghost, that is, by a desperate and impious obstinacy of mind persevere in their sins, and proudly resist God without any humility of confession or repentance ?

This was St. Austin's constant and invariable sense of this matter, out of which the schoolmen, I know not how, have raised six several species of blasphemy against the Holy Ghost, viz. despair, presumption, final impenitency, obstinacy in sin, opposing and impugning the truth which a man knows, and envious malice against the grace of the brethren. Whereas nothing can be plainer, than that St. Austin resolves the whole matter into obstinacy in opposing the methods of divine grace, and continuing in this obduration finally without repentance. Other sins may lead the way to this blasphemy, in word or

action, as infidelity or reviling the Spirit in Jews or heathens ; or heresy, or schism, or an immoral life in Christians after baptism. But all this is only inchoative blasphemy, which does not render it absolutely unpardonable : for many of all these sorts have repented and obtained pardon : but when men continue obstinate in any of these sins, and finally die impenitent in them, then their sins become punishable in both worlds, and pardonable in neither ; not for want of mercy in God or his Church, but for want of repentance and capacity in the subject.

And by this account it is easy now to determine what sort of punishments and ecclesiastical censures were inflicted on this crime, as well in the first rise and beginning, as in the progress and consummation of it. The same punishment that was laid upon idolatry, or apostasy, or denying the divinity of Christ, or the Holy Spirit, or lapsing into any great immorality, or other blasphemy after baptism, was laid upon this sin of blaspheming the Holy Ghost : because it usually began in some of these notorious misdemeanors ; of which if men truly repented, the door of mercy was still open to them, and the Church was ready to receive them again to communion : but if they continued obdurate all their lives, and died in their impenitency ; as this was esteemed the consummation of the great sin against the Holy Ghost, and properly the sin unto death ; so it could have no forgiveness in this world, nor the world to come. They died excommunicate : and so had neither the solemnity of a Christian burial, nor the suffrages of the Church after death ; being struck out of her diptychs, and no memorial ever after made of them, as of persons desperate, and entirely out of God's favour. I have been the longer in explaining the sense of the ancients upon this point, not only because it is not very commonly known, but also because it may be of use both to caution ungodly men against the danger of final impenitency, which is the consummation of the blasphemy against the Holy Ghost ; and likewise serve to comfort the pious, who need be in no concern about the commission of this sin, so long as they truly repent of all sin, and desire to please God in the constant tenour of an holy life. For this sin cannot consist with a true repentance : and though

men have begun in any degree to commit it, yet according to the general sense of the ancients, they are still capable of pardon, if they do not render it unpardonable by their own obstinacy and wilful impenitency to the hour of death; after which it can have no forgiveness in this world or the world to come.

SECT. IV.—*Of profane Swearing. All Oaths not forbidden.*

The next transgression of the third commandment, which they punished with ecclesiastical censure, was profane swearing, or reproaching and dishonouring the name of God by oaths and execrations. By which they did not mean all oaths in general, nor yet any single act of rash and hasty swearing, (unless attended with some other aggravating crime or circumstance of apostasy, idolatry, perjury, or the like,) but only the habit and custom of profane swearing. Chrysostom, indeed, and some others, in their sharp invectives against common swearing,[†] seem sometimes to carry the matter so far, as to deny the lawfulness of all oaths to Christians in any case whatsoever. But whatever private opinions some few might have of this matter, (in which they were not constant or consistent with themselves, as learned men^u have observed,) it is certain there never was any public rule of the Church to forbid this, and much less to make it the subject of ecclesiastical censure. The generality of Christians always esteemed the taking of an oath in necessary cases for confirmation of truth, to be a very lawful thing, as appears both from the laws themselves, ecclesiastical as well as civil, and from general practice. One of Constantine's laws is confirmed with a solemn oath in the very body of it, where he promises to encourage any one that shall give just information against the corrupt practices of his ministers,^x with this formal asseve-

[†] Vid. Sixt. Senens. Bibliothec. lib. vi. adnotat. xxvi. where all such passages are collected.

^u Cave, Prim. Christ. part iii. c. i. p. 213. Some of the ancient fathers held all taking of an oath unlawful: but besides that those few that did, were not herein constant to themselves, the far greatest part were of another mind, &c.

^x Cod. Theod. lib. ix. tit. i. de Accusation. leg. iv. (Lugdun. 1665. vol. iii. p. 6.)

ration : ‘As the most high God shall be merciful to me, and preserve me in safety, according to my desire, in the flourishing state of the commonwealth.’ Nothing was more usual than the taking of oaths for confirmation of contracts, as is evident from that famous law of Arcadius⁷ which inflicts many severe penalties upon all that violate their contracts made in the name, and confirmed by the authority of Almighty God : and also on such as broke their contracts, which they confirmed by an oath taken in that peculiar form of swearing by the emperor’s safety. Which was an usual form of an oath among Christians, as ancient as Tertullian, who mentions it in answer to an objection made by the heathen against them, as if they were enemies to the government, and guilty of treason, because they refused to swear by the emperor’s genius ; to this he replies,* “That though they did not swear by the emperor’s genius, yet they made no scruple to swear by the emperor’s safety, a thing more august than all the genii in the world. For the genii were nothing but devils. In the emperors they acknowledged God’s institution and authority, who set them over the nations : and therefore they desired their safety and preservation, as God’s appointment, and made a great and solemn oath of that : but for the demons, or genii, they were used to abjure them, in order to cast them out of the bodies of men, not to swear by them, and thereby confer divine honour upon them.” Athanasius mentions the same form as

Ita mihi summa divinitas semper propitia sit, et me incolumem præstet, ut cupio, felicissima et florente republica.

⁷ Cod. Theod. lib. ii. tit. ix. de Pactis, leg. viii. (Lugdun. 1665. vol. i. p. 133.) Si quis . . . adversus pacta vel transactiones . . . putaverit esse veniendum . . . non implendo promissa ea, quæ invocato nomine Dei omnipotentis, eo auctore solidaverit, inuratur infamia, &c. Eos etiam hujus litis vel jactura dignos jubemus esse, vel munere, qui nomina nostra placitis inserentes Salutem Principum confirmationem initarum esse juraverint pactionum.

* Tertul. Apol. c. xxxii. (Paris. 1664. p. 28. A. 2.) Sed et juramus, sicut non per genios Caesarum, ita per salutem eorum, quæ est augustior omnibus geniis. Nescitis genios demonas dici, et inde diminutiva voce dæmoni. Nos judicium Dei suspicimus in imperatoribus, qui gentibus illos præfecit. Id in eis scimus esse, quod Deus voluit ; ideoque et salvum volumus esse, quod Deus voluit, et pro magno id juramento habemus. Ceterum demonas, id est, genios, adjurare consuevimus, ut illos de hominibus exigamus, non dejerare ut illis honorem divinitatis conferamus.

used in his time both by the catholics, and by Syrianus, the prefect of Egypt, telling Constantius^a that he swore by his safety. And the like instances are given by Sozomen,^b and Zosimus,^c the heathen historian. In the collation of Carthage, Marcellinus, the emperor's commissioner, who was appointed to hear the debate between the Catholics and the Donatists, in the time of Honorius, at the entrance of the dispute promised both sides upon oath by the admirable mystery of the Trinity, and the sacrament or mystery of the divine incarnation,^d and the safety of the emperors, that he would judge truly according to the allegations of the parties. And the same form was observed in the military oath taken by the soldiers, when they entered upon the muster-roll, as we learn from Vegetius, who lived in the time of the younger Valentinian. He says,^e "They swore by God, by Christ, and the Holy Spirit, and the majesty of the emperor, which next to God is to be loved and honoured by mankind." In many other cases, the law required men to swear upon weighty concerns. Constantine^f required every witness to take an oath before he gave his testimony in any cause. And Justinian^g not only confirmed this in his Code, but added several other cases in which not only

^a Athan. Epist. ad Monach. tom. i. p. 866. D 9. (N.B. In edit. Paris. 1698. p. 394. invenio quæ sequuntur, quæ vero non satis probare mihi videntur, catholicos per salutem imperatoris jurasse.) Ὁρκίζομεν κατὰ τοῦ παντοκράτορος Θεοῦ, ὑπὲρ τῆς σωτηρίας τοῦ εὐσεβεστάτου Αὐγούστου Κωνσταντίου, τὸν τε ἑπαρχὸν τῆς Αἰγύπτου Μάξιμον, &c. τ. λ. — Athan. Apol. ad Constant. tom. i. p. 689. D 4. (p. 710, cit. edit.) Συνιδὼν Συριανὸς τὸ εὐλογον, διεβεβαιώσατο μαρτυρόμενος τὴν σὴν σωτηρίαν, καὶ ἐπὶ τούτῳ παρῆν τότε καὶ Ἰλάριος, μηκέτι μὲν διοχλεῖν, ἀναφέρειν δὲ ἐπὶ τὴν σὴν Θεοσέβειαν.

^b Sozom. lib. ix. c. vii. (Vales. Amstel. 1695.) Πρὸς τῆς σωτηρίας τοῦ βασιλείως αὐτὸς ὤμοσε, καὶ τοὺς ἄλλους ἄρχοντας παρεσκεύασε, μή ποτε εἰρήνην εἶσθαι πρὸς Ἀλάρικον. (p. 654.)

^c Zosim. lib. v. c. xlix. p. 643, edit. Ciz. 1679. Ὡμυν δὲ καὶ αὐτὸς ὅρκον, τῆς βασιλείας ἀψάμενος κεφαλῆς, καὶ τοὺς ἄλλους, οἱ τὰς ἰσχύας εἶχον, ταῦτόν ποιῆσαι παρασκευάσας.

^d Collat. Carthag. die i. cap. v.

^e Veget. de Re Militari, lib. ii. c. v. Jurant per Deum et per Christum et per Spiritum sanctum, et per majestatem imperatoris, quæ secundum Deum generi humano diligenda est et colenda.

^f Cod. Theodos. lib. xi. tit. xxxix. leg. iii. Jurisjurandi religione testes, priusquam perhibeant testimonium, jam dudum artari præcipimus. (vol. iv. p. 321.)

^g Justin. Cod. lib. iv. tit. xx. de Testibus, leg. ix.

witnesses, but also both the plaintiff and defendant, and the advocates, were to take their several oaths upon the Gospels. And this was called 'juramentum de calumnia,' the oath of calumny;¹ where the plaintiff was particularly obliged, before he could prosecute his action, to swear that he did not bring his action against his adversary with any design to calumniate him, but because he thought he had a just and righteous cause: and the defendant was to take a like oath before he could give in his answer. They were likewise obliged by another² law to swear, "That they had given no bribe to the judges or any other person, nor promised to give any, nor would hereafter give any." And it has been observed before,³ that to prevent simony in elections to ecclesiastical preferments, the electors were obliged, by the same laws of Justinian,¹ to depose upon oath, that they did not choose the party elected either for gift, promise, or friendship, or any other reason, but because they knew him to be in every respect well qualified for such a station. And the party ordained was likewise to take an

¹ Cod. Justin. lib. ii. c. lix. (Corp. Jur. Civil. Amstel. 1663. p. 82.) de jure jurando propter calumniam dando, leg. i. In omnibus causis, sive propter litteras fuerit apud te certatum, sive propter instrumenta, sive propter quicquam aliud, in quo necessitas probationis incumbit: sancimus non aliter easdem probationes præstare compelli, nisi prius, qui eas exposcit, juramentum de calumnia præstiterit, &c. Leg. ii. Quum [et] iudices non aliter causas dirimere concesserimus, nisi sacrosanctis evangeliiis propositis et patronos causarum in omni orbe terrarum prius jurare, et ita perferre causas disposuerimus: necessarium duximus præsentem legem ponere, per quam sancimus in omnibus litibus, quæ fuerint post præsentem legem inchoatæ, non aliter neque actorem neque fugientem in primordio litis exercere certamina, nisi post narrationem et responsionem, antequam utriusque partis advocati sacramentum legitimum præsent, ipsæ principales personæ subeant jus jurandum: Et actor quidem juret, 'Non calumniandi animo [litem se] movisse, sed existimando bonam causam habere.' Reus autem non aliter suis allegationibus utatur, nisi prius et ipse juraverit, 'Quod putans se bona instantia uti, ad reluctandum pervenerit:' et postea utriusque partis viros disertissimos advocatos ([secundum] quod jam dispositum est a nobis,) juramentum præstare, sacrosanctis videlicet evangeliiis ante judicem positis.

² Justin. Novell. cxxiv. cap. i. (p. 176.) 'Ἐν παρουσίᾳ τῶν δικαστῶν, ἀπτομένους τῶν ἁγίων εὐαγγελίων, ὁμῦναι, ὅτι οὐδὲν παντελῶς τοῖς δικασταῖς προστασίας χάριν, ἢ ἄλλῃ οἰωδῆποτε προσώπῳ ὑπὲρ ταύτης τῆς αἰτίας καθ' οἰονδῆποτε τρόπον δέδωκασιν, ἢ ὑπέσχοντο, ἢ μετὰ ταῦτα δώσουσιν, ἢ δι' ἐαυτῶν, ἢ δι' ἄλλου οἰονδῆποτε μίσου προσώπου.

³ Cap. vi. § xxviii. sub litt. (p) p. 134.

¹ Justin. Novell. cxxiii. c. i. vide ibid.

oath^k upon the holy Gospels, at the time of his ordination, that he had neither given by himself or other, nor promised to give, nor would hereafter give to his ordainer, or to any of his electors, or any other persons any thing to procure him an ordination. And for any bishop to ordain another bishop without observing this rule, is deposition by the same law both for the ordained and his ordainer. Which shows also, that the injunction of taking necessary oaths, did not only bind in secular and civil affairs, but in ecclesiastical and sacred likewise. And here not to insist upon all that is said in private writers; as Athanasius^l requiring of Constantius that his accusers might be put to their oath; and Evagrius, Archdeacon of Constantinople,^m swearing upon the holy Gospels; and what is said by St. Austin,ⁿ and many others, in justification of this practice in necessary cases; I only observe that, in some councils, oaths are expressly required by general and provincial councils in many cases. The oath of fidelity to kings is required by the fifth Council of Toledo,^o to be taken by all, both clergy and laity. And a reference is made to a former council of all Spain, where the same oath is established. That is the fourth Council of Toledo, where a complaint is made^p of many nations breaking

^k Justin. Novell. cxxxvii. c. ii. "Ὁρκον δὲ ὑπέχειν καὶ αὐτὸν τὸν χειροτονούμενον κατὰ τῶν θείων γραφῶν, ὡς οὔτε δι' ἑαυτοῦ οὔτε δι' ἑτέρου προσώπου δίδωκε τι ἢ ὑπέσχετο, οὔτε μετὰ ταῦτα δώσει, ἢ αὐτῷ τῷ χειροτονοῦντι αὐτὸν, ἢ τοῖς τὰ ψηφίσματα εἰς αὐτὸν ποιησαμένοις, ἢ ἑτέρῳ τῷ πάντων τινὶ, ὑπὲρ τῆς εἰς αὐτὸν γινομένης χειροτονίας. Εἰ τις δὲ παρὰ τὴν μνημονευθεῖσαν παραφυλακὴν ἐπίσκοπος χειροτονηθῇ, κελεύομεν καὶ αὐτὸν πᾶσι τρόποις τῆς ἐπισκοπῆς ἐκβάλλεσθαι, καὶ τὸν παρὰ ταῦτα τολμήσαντα χειροτονῆσαι. (p.196.)

^l Athan. Apol. ad Constant. (Colon. 1686.) tom. i. p. 678. C 8. (p. 300, edit. Paris. 1698.) 'Εβουλόμην δὲ αὐτὸν, ὅστις ἐστίν, ἑταῦθα παρῆναι, καὶ ἐπ' αὐτῆς τῆς ἀληθείας ἐρωτῆσαι· ἃ γὰρ ὡς Θεοῦ παρόντος λαλοῦμεν, τοῦτον ὅρκον ἔχομεν ἡμεῖς οἱ Χριστιανοί.

^m Sozom. lib. vi. c. xxx. (Vales. Amstel. 1695. p. 557. D 8.) 'Ο δὲ τῆς βίβλου ἐφαψάμενος, ἡ μὴν ὧδε πράξειν ἐπωμόσατο.

ⁿ Augustin. Epist. cliv. ad Publicolam. (tom. iii. Opp. p. 702, 703, edit. Basil. 1569.) Id. lib. i. de Serm. Dom. c. xxx. (tom. iv. p. 1124, 1125, cit. edit.) Basil. in Psalm. xiv. tom. i. p. 133. b. c. d. e.—Gregor. Nazianz. Epist. cecxix. ad Theodorum tot. (tom. i. Opp. p. 908.) Hieron. in Matth. v. Vide inf. sub litt. (z).

^o Concil. Tolet. v. can. ii. Hoc, quod cum divinis sacramentis spopondimus, etc.

^p Concil. Tolet. IV. c. lxxv. (Labbé, vol. v. p. 1723.) Quæ spes talibus populis

the oath of fidelity taken to their kings: which, they rightly observe, destroys their credit with all nations in matters of leagues and treaties about peace and war. "For what enemy can depend upon their promises, though given upon oath, who do not preserve the faith which they swear to their own kings? Such violation of oaths and fidelity to their kings is sacrilege; because it is not only a breach of compact against them, but against God, in whose name the promise is made." The same council ^a takes notice of kings promising upon oath to pardon criminals in some special cases. And the eighth Council of Toledo mentions many cases in which it was usual to confirm matters with a solemn oath; ^r as the making of leagues; the settling of lasting and inviolable friendship; the taking of the evidence and depositions of witnesses in law; and in want of such evidence, the allowing a man to clear his own innocence by an oath of purgation. And in the sixth general council held at Constantinople, Georgius Chartophylax is appointed several times to take his corporal ^s oath by the holy Scriptures and God that speaks in them, concerning certain things, the truth of which he was to attest before the council. From all which it is evident, that the ancient Christians thought it a very lawful thing to ratify and confirm their faith by the formality of an oath, upon just and necessary occasions;

contra hostes laborantibus erit? quæ fides ultra cum aliis gentibus in pace credenda? quod foedus non violandum? quæ in hostibus jurata sponsio [stabilis] permanebit, quando nec ipsis propriis regibus juratam fidem conservant? . . . Sacrilegium quippe est, si violetur a gentibus regum suorum promissa fides; quia non solum in eos fit pacti transgressio, sed et in Deum, quidem, in cujus nomine pollicetur ipsa promissio.

^a Ibid. c. xxxi. (p. 1714.) Jurejurando supplicii indulgentia promittitur.

^r Concil. Tolet. VIII. c. ii. Omne, quod in pacis foedere venit, tunc solidius subsistit, quum juramenti hoc interpositio roborat. Sed et omne, quod animos amicorum conciliat, tunc fidelibus durat, quum eos sacramenti vincula ligant. Omne etiam, quod testis adstipulat, tunc verius constat, quum id adjectio jurationis adfirmat. Quod si et testis deficiat, innocentis fidem sola jurisjurandi taxatio manifestat. (Labbé, vol. vi. p. 401. B 9.)

^s Concil. VI. Constantinop. act. xiii. p. 378, edit. Crab. (Labbé, tom. vi. p. 996. D.) *Καὶ ἀψάμενος τῶν προκειμένων ἀχράντων τοῦ Θεοῦ λογίων Γεώργιος, ὁ θειοσεβέστατος διάκονος καὶ χαρτοφύλαξ, ὤμοσεν οὕτως· Μὰ τὰς ἁγίας γραφὰς ταύτας, καὶ τὸν Θεὸν τὸν λαλήσαντα δι' αὐτῶν, κ. τ. λ.*—Act. xiv. p. 382. (p. 978. d. edit. Labbé.) *Μὰ τὰς ἁγίας δυνάμεις ταύτας, καὶ τὸν Θεὸν τὸν λαλήσαντα δι' αὐτῶν, κ. τ. λ.*

and consequently, that there could be no rule to prohibit it, much less to make it a crime worthy of ecclesiastical censure.

SECT. V.—*But only the custom of vain and common Swearing.*

Neither was it every single act of vain and common swearing, that brought a man under public discipline. For though every such act was esteemed a crime, yet it was not like the single act of apostasy or idolatry, or murder, or adultery; but it must be a custom or habit of this vice that made a man liable to the severity of excommunication. Tertullian^t says expressly, “That every rash and vain oath did not bring a man under the discipline of public penance, but was reckoned among the sins of daily incursion, for which private repentance was appointed.” And St. Chrysostom, who is most vehement and severe against this vice, does not threaten men with excommunication for every single act of it, but for obstinate continuance in the custom and practice of it after sufficient admonition. Having preached a whole Lent against swearing to the people of Antioch, he thus concludes his last discourse: “The forty days of Lent are already past;”^u if Easter passes likewise without reforming this wicked custom, I will thenceforward pardon no man, nor use any longer admonition, but commanding authority, and sharpness not to be despised. It is no just apology in this case to plead custom. For why may not the robber as well plead custom, and thereby excuse himself from punishment? And why may not the murderer and adulterer do the same? Therefore I protest and denounce beforehand, that if I apprehend any who have not corrected this vice, I will inflict punishment upon them, and order them to be excluded from the participation of the holy mysteries.” So

^t Tertull. de Pudicit. c. xix. vide vol. v. p. 562. cap. iii. § xiv. sub litt. (q).

^u Chrysost. Homil. xxii. ad Popul. Antioch. tom. i. p. 294. B 10. (p. 561, edit. Francof.) Τεσσαράκοντα λοιπὸν ἡμέραι παρήλθον· ἂν τοίνυν τὸ πάσχα παρήλθῃ τὸ ἱερὸν, οὐδενὶ συγγνώσομαι λοιπὸν, οὐδὲ παραίνεσιν προσάξω, ἀλλ’ ἐπιταγήν, καὶ ἀποτομίαν ἀκαταφρόνητον· οὐδὲ γὰρ ἰσχυρὰ αὕτη ἡ ἀπολογία, ἢ διὰ τῆς συνηθείας. διὰ τί ὁ κλέπτων οὐ προβάλλεται συνήθειαν, καὶ ἀπαλλάττεται κολάσεως; διὰ τί ὁ φονεὺν καὶ μοιχεύων; πᾶσι τοίνυν προλέγω καὶ διαμαρτύρομαι, ὅτι ἂν συγγενόμενος ὑμῖν κατ’ ἰδίαν, καὶ λαβὼν ἀπόπειραν, λήψομαι δὲ πάντως, καὶ εἴρω τινὰς μὴ διορθώσαντας τὸ ἑλάττωμα, ἀπαιτήσω ἕκην, κελύσας ἕξω μένειν τῶν μυστηρίων τῶν ἱερῶν.

again, in another homily ^x to the people of Antioch: "For this sin we mourn and lament: but, if I find any to persist in it, I will exclude them from entering the doors of the Church, and partaking of the heavenly mysteries. Nor let any one think to insult me by the help of his riches or power. Those things are no more to me than a mere fable, a shadow, or a dream. No rich man will be able to be my advocate, when I am accused before God's tribunal, that I did not, with all my power and might, assert and vindicate the laws of God, by punishing the transgressors of them."

SECT. VI.—*And swearing by the Creatures.*

Another transgression of this command, was swearing by the creatures. The fourth Council of Carthage^y orders a clergyman that was found guilty of this crime, to be first sharply reproved, and if he persist in his fault, to be excommunicated. St. Jerom says,^z our Saviour prohibited it in those words, 'Thou shalt not swear by heaven, nor by earth, nor Jerusalem, nor by thy head.' And there goes a decree under the name of Pope Pius I.,^a which forbids men not only to swear by the hair or head of God, or any other such blasphemous oaths, but by the creature, under the penalty of excommunication.

But because this may seem to contradict what they said

^x Chrysost. Homil. xvii. in Matth. p. 182. line 1. (p. 222. c. sub fin. edit. Francof.)
 Διὸ καὶ ἡμεῖς θρηνοῦμεν καὶ ὀδυρόμεθα· κἀν ἐπιμένοντας ἴδω, ἀπαγορεύσω
 λοιπὸν ὑμῖν τῶν ἱερῶν τούτων ἐπιβῆναι προθύρων, καὶ τῶν ἀθανάτων μετα-
 σχεῖν μυστηρίων· . . Μὴ μοί τις πλούσιος, μὴ μοί τις δυνάστης ἐνταῦθα φυάτω,
 καὶ τὰς ὁφρὺς ἀνασπάτω· πάντα μοι ταῦτα μῦθος, καὶ σκιά, καὶ ὄναρ· οὐδεὶς
 γὰρ τῶν νῦν πλουτούντων ἐκεῖ μου προστήσεται, ὅταν ἐγκαλοῦμαι καὶ κατη-
 γοροῦμαι ὡς μὴ κατὰ τῆς προσηκούσης σφοδρότητος τοῦ τοῦ Θεοῦ διεκδικήσας
 νόμους.

^y Concil. in Carth. IV. c. lxi. (Labbé, vol. ii. p. 1205.) Clericum per creaturas jurantem, acerrime objurgandum. Si perstiterit in vitio, excommunicandum.

^z Hieron. in Matth. v. Considera, quod hic Salvator non per Deum jurare prohibuerit, sed per cælum et terram et Hierosolimam et per caput tuum.

^a Ap. Gratian. caus. xxii. quæst. i. c. x. Si quis per capillum Dei vel caput juraverit, vel alio modo blasphemia contra Deum usus fuerit; si in ecclesiastico ordine est, deponatur; si laicus, anathematizetur. Et si quis per creaturam juraverit, acerrime castigetur.

before, "that a man might lawfully swear by the emperor's safety;" we are to consider, that in such oaths, they did not properly swear by the creatures, invoking them as witnesses of the truth of what they said, but only naming them with some relation to God, by whom they swore. Which, as learned men^b observe, may lawfully be done two ways. 1. In execratory oaths, when a man devotes any creature, in which he himself has some right and property, and as it were oppigno-

^b Rivet. in Decalog. tom. i. Opp. p. 1287, 1288, edit. Roterod. 1651. Est species juramenti, in qua agnoscimus creaturæ nomen posse adhiberi sensu commodo, sine ulla Dei contumelia, et sine idololatriæ suspitione, idque duobus modis. 1. In juramento execratorio, quum quis creaturam ad se pertinentem quasi devovet, Deique judicis severæ ultioni velut oppignorat, nisi verum dicat. Sic potest aliquis in re seria, caput, animam, filios et reliqua ad se pertinentia, quantum in ipso est, devovere, si sciens fallat. In talibus enim non jurat per eas res; sed tantum agnoscit coram Deo, se dignum esse, qui in illis puniatur, si pejeret. Talia in scripturis habemus juramenti exempla, quæ Deum semper directe tamquam testem et judicem respiciunt; creaturam autem tamquam rem nobis caram, quam non dubitamus oppignorare, ut ex eo proximus certus sit, nos in perniciem propriam, aut rerum quæ nobis sint in pretio, nolle fallere. Sic jurat David, Psalm. vii. 16. 'Si feci istud, et si est iniquitas in manibus meis, persequatur inimicus animam meam.' Et Paulus, 2 ad Corinth. i. 1. 'Testem Deum invoco in animam meam.' Sic jurabant per caput suum, id est, illud devovebant. Unde illud apud Græcos, *νῆ τὴν κεφαλὴν*. Et apud Virgilium Æneid. ix. 'Per caput hoc juro:' hoc est, immineat capiti meo periculum, si sciens fallam. Hic modus usurpandæ creaturæ in re seria et vera licitus est, quia in eo non proprie consistit juramentum, sed ejus quædam appendix. 2. Alter modus est, quum quis earum rerum meminit in jurejurando, quæ quidem non sunt in ejus potestate constitutæ, ac proinde nec eas potest devovere; sed tales sunt, quarum apud eum ratio haberi in primis debet, inter res humanas; et quarum meminit, non ut eas testes veritatis advocet, aut illis deferat honorem juramenti, vel aliqua ex parte; sed ut per comparisonem sui in eas res adfectus, et debitæ civilis reverentiæ, testetur hominibus coram Deo, quam serio agat, quum loquitur. Sic jurabant veteres Christiani, Tertulliano teste, (Apol. c. xxxii.) 'per salutem imperatoris,' qui per ejusdem genium jurare renuebant. Vel per salutem imperatoris intelligentes ipsum Deum, salutis auctorem, et qui salus imperatoris dici poterat effective; vel ut esset potius obtestatio, quam juramentum proprie dictum, per comparisonem, hoc sensu, 'Testor coram Deo, non mihi minus cordi esse in ea re veritatem, quam mihi cordi est imperatoris salus;' aut simile hujusmodi. Talia juramenta potius sunt obtestationes, de quibus Basilii (vide not. c.) ad Psalm. xiv. 'Sunt quidam sermones, speciem quidem juramenti habentes, qui tamen non sunt, sed obtestatio ad eos qui audiunt.' Huc referri potest juramentum Josephi, Gen. xlii. 15. 'Vivit Pharaon.' Ubi vetus interpretes habet, 'per salutem Pharaonis;' LXX. autem *νῆ τὴν ὑγίειαν Φαραὼν*, per salutem aut sanitatem Pharaonis: id est, Quam mihi cordi est salus Pharaonis, &c.

rates it to the severe vengeance of God the judge, if he swear falsely. Thus a man may in a serious matter devote his head, his soul, his children, or any other thing belonging to him, if he knowingly forswear himself. Such examples of oaths we have in Scripture, which respect God always directly as witness and judge; and the creature only as something dear to us, which we are willing to pawn, to certify our neighbour thereby, that we intend not to deceive him, to the destruction of ourselves, or any things that are highly valued by us. Thus David swears, (Psal. vii. 5.) "If I have done any such thing, O Lord, my God, or if there be any wickedness in my hands, then let my enemy persecute my soul." So St. Paul, (2 Cor. i. 23.) "I call God for a record upon my soul." And thus men were used to swear by their head, devoting it to a curse, if they wittingly falsified. This way of using the name of a creature in an oath is reputed lawful; because this is not properly the oath, but only an appendix of it. 2. The other way of mentioning the creatures in an oath, without swearing by them, is, when by a testification of the civil respect and affection they have for them, they likewise signify in the presence of God, the truth of what they say to men, that it is as certainly true, as they certainly and undoubtedly wish the wealth and prosperity of such a creature or person. Thus Joseph, when he swore by God, mentioned the life of Pharaoh, (Gen. xlii. 15.) which the vulgar Latin renders, "*per salutem Pharaonis*," from the Septuagint, *νῆ τὴν ὑγίειαν Φαραὼν*, 'by the safety of Pharaoh:' which is the same form, that, as we have seen before, the primitive Christians used, when they inserted the words, "*per salutem Imperatoris*," into their ordinary oath conceived in the name of God only. For neither of these intended to swear by the creatures, but to testify in the presence of God, that what they asserted was as certainly true, as they wished the safety of Pharaoh, or the emperor, or as certainly as they were in health and in being. For such forms may be taken either by way of prayer, or asseveration and protestation: where the protestation is plainly expressed, but that which is properly the oath in the name of God, is covertly understood. And in this sense, both the ancient Christians and Joseph are to be understood. For

as St. Basil^c observes, "There are some modes of expression which seem to be oaths, but are not properly oaths, but only asseverations, to confirm the truth to men:" he instances in that of Joseph, who sware, *νὴ τὴν ὑγίειαν Φαραὼ*, 'by the safety of Pharaoh.'

SECT. VII.—*And by the Emperor's Genius, and Saints and Angels.*

But the case was otherwise when men swore directly by any creatures, as judges and revengers of their thoughts, if they were false and perfidious in their deposition. Therefore, though the Christians admitted the naming of the emperor's safety in their oaths, they would never swear by the emperor's genius, because this was idolatry, and in effect apostatizing to heathenism, and renouncing the Christian religion. The persecutors required no more of them but this, as a testimony of their renunciation. In the passion of Polycarp, recorded by Eusebius,^d the proconsul required him frequently to swear by the emperor's genius: to which he constantly replied, "that he was a Christian." So in the acts of the Scillitan martyrs^e in Africk, the judge bids them only swear by the emperor's genius, and that should pass for an acknowledgment of the Gentile religion: but they answered, "We know nothing of the emperor's genius, but we worship and serve the God of heaven." The like is said by Origen,^f "We swear not by the emperor's fortune or genius: for whether fortune be only a casual thing, as some repute it, we swear not by that as a god,

^c Basil. in Psalm. xiv. (Paris. 1638.) tom. i. p. 133. D 8. *Εἰσι δὲ τινες λόγοι, σχήματα μὲν ὅρκων ἔχοντες, οὐχ ὅρκοι δὲ ὄντες, ἀλλὰ θεραπεία πρὸς τοὺς ἀκούοντας.*

^d Euseb. lib. iv. c. xv. p. 131. (p. 107, edit. Amstelod. 1695.) *Ὅμοσον τὴν Καίσαρος τύχην.*

^e Acta Mart. Scillitan. ap. Baron. an. ccii. n. ii. (Antwerp. 1597. p. 291.)

^f Orig. contr. Celsum, lib. vii. p. 421. line 19. *Τύχην μὲν τοι βασιλέως οὐκ ὀμνυμεν, ὡς οὐδ' ἄλλον νομιζόμενον θεόν· εἴτε γὰρ [ὡς ὀνόμασάν τινες] ἐκφορὰ μόνον ἐστὶν ἡ τύχη· οὐκ ὀμνυμεν τὸ μηδαμῶς ὂν ὡς θεόν, ἢ ὅλως ὑφ' ἐστῆτος καὶ δυνάμενόν τι ποιῆσαι, ἵνα μὴ τὴν ὁμοτικὴν δύναμιν εἰς αὐτὴν μὴ δεῖ παραλαμβάνομεν· εἴτε καὶ (ὡς τισὶν ἔδοξεν, εἰποῦσι τοῦ Ῥωμαίου βασιλέως τὸν δαίμονα ὀμνύσιν οἱ τὴν τύχην αὐτοῦ ὀμνύοντες) δαίμόνων ἐστὶ ἡ ὀνομαζομένη τύχη τοῦ βασιλέως· καὶ οὕτως ἀποθανατίον ἐστὶ μάλλον ἡμῖν ὑπὸ τοῦ μὴ ὀμῶσαι μοχθηρὸν δαίμονα καὶ ἄπιστον, πολλάκις συνεξαμαρτάνοντα ὃ ἔλαχεν ἀνθρώπων, ἢ καὶ πλεον αὐτοῦ ἀμαρτάνοντα.* (Cantabr. 1677.)

which is nothing in the world, lest we should apply the power of an oath to that which we ought not; or whether fortune be one of the *dæmons*, as others say, we rather choose to die, than swear by an impious and wicked devil." The like is said by Minucius,^g "That it was peculiar to the heathens to swear by the emperor's genius, that is, his *dæmon*; and that it was safer to forswear themselves by the genius of Jupiter, than the genius of the emperor." Tertullian^h says, "Christians absolutely refused to swear by this form, though they scrupled not to swear by the emperor's safety." But the heathen rebels were used to swearⁱ by the emperor's genius, at the same time that they were plotting treason against him; which he frequently retorts upon them, because they were used to charge Christians^k as traitors, because they would not swear by the emperor's genius. The nature of this crime then, we see, was plainly idolatry, and apostasy, in giving divine honour to a *dæmon*, instead of God, and thereby renouncing at once the Christian religion. Whatever penalties therefore were imposed on idolaters and apostates, the same we may conclude to have been the punishment of those who in times of persecution complied with the demands of the heathen, to swear by the emperor's genius or *dæmon*; which was to give divine honour to creatures, and the worst of creatures, the apostate angels, who were in professed rebellion against God.

To swear by good angels, or saints, or the Virgin Mary, or their images and relics, though it had a more specious pretence, was not much short of the former vice. For all divine worship being appropriated to God by the doctrine of the ancients;

^g Minuc. Fel. p. 88. (c. xxix. n. 7. p. 112, edit. Halens. 1699.)

^h Tertull. Apol. c. xxxii. cit. § iv. sub litt. (z) p. 166.

ⁱ Ibid. c. xxxv. (Paris. 1664. p. 29. B 5. Unde Cassii, et Nigri, et Albini? . . . omnes illi sub ipsa usque impietatis eruptione, et sacra faciebant pro salute imperatoris, et genium ejus dejerabant.—Id. lib. ad Scapulam, c. ii. Sic et circa majestatem imperatoris infamamur, tamen numquam Albiniani, nec Nigriani, vel Cassiani inveniri potuerunt Christiani: sed iidem ipsi, qui per genios eorum in pridiæ usque juraverant, qui pro salute eorum hostias et fecerant et voverant, qui Christianos sæpe damnaverant, hostes eorum sunt reperti. (p. 69. B 9.)

^k Tertull. ad Nationes, lib. i. c. xvii. (ibid. p. 51. D 3.) Prima obstinatio est, quæ secunda ab eis religio constituitur Cæsarianæ majestatis, quod irreligiosi dicamur in Cæsares, neque imagines eorum repropitiando, neque genios dejerando, hostes populi nuncupamur.

and the taking of an oath being one solemn act of that worship; they were no more disposed to swear by an angel or a saint than by the emperor's genius, or any other thing that might reasonably be interpreted a conferring the honour of God upon the creature. Therefore Optatus objects it to the Donatists, as a great piece of insolence and impiety, that "whereas¹ men ought to swear only by God alone, Donatus suffered those of his party to swear by himself as a God." And his successors as greedily embraced this honour. For Optatus^m charges the same impiety upon them all in general: "The people swear by you, and are now commonly known to put your persons in the place of God. Men are used to name the name of God in oaths, to confirm their faith or veracity: but while they swear by you, there is no mention of God or Christ among your party. If divine religion be transplanted from heaven to you, seeing men swear by your name, why do you not assume the power of preventing all diseases in yourselves, and those of your party? Let no one die: command the clouds: rain, if you can: that men may swear more perfectly by your name, and take no notice of God. O the sacrilege and impiety that concurs together in your actions! whilst you willingly hear men swear by your names, and let not the name of God be once mentioned in your ears." He says further, "that they wereⁿ used to swear by their pretended martyrs, though they were men that suffered for their crimes, and not for the cause of religion." By which it is evident, that, in the time of Optatus, to swear by the name of a man, whether living or dead, was reckoned

¹ Optat. lib. iii. p. 65. (p. 68, edit. Paris. 1679.)

^m Optat. lib. ii. (p. 53, cit. edit.) (Paris. 1631. p. 58.) Vestri per vos jurant, et personas vestras jam pro Deo habere noscuntur. Solet Deus ad probandam fidem in juratione ab hominibus nominari. Sed quum per vos juratur, jam apud vestros de Deo et Christo silentium est. Si ad vos divina migravit de cœlo religio, quia per vos juratur, nemo vestrum aut vestrorum langueat: nolite mori: imperate nubibus: pluite, si potestis: ut per vos plenius juretur; et de Deo sileatur. . . . O sacrilegium impietati commixtum! dum homines per vos jurantes libenter auditis, et vocem Dei auribus non admittitis vestris.

ⁿ Optat. lib. iii. p. 69. (p. 75, edit. cit.) Nolo hominum facere mentionem, quos vos inter martyres ponitis: per quos, tamquam per unicam religionem, vestræ communionis homines jurant, etc.

no less a crime than sacrilege and impiety, as transferring the honour of God upon the creature. And consequently, the same punishment that was due to sacrilege and impiety, must be supposed to be the punishment of this crime in all those that were guilty of it: though we read of few besides these heretics in those days that were disposed to run into it, till the worship of saints, and angels, and the Virgin Mary, began to creep into the Church: and then, together with that corruption, came in this other of joining the Virgin Mary, and the archangels Michael and Gabriel, in the same oath with God. The form of which sort of oaths, we have in one of Justinian's novels,^o which obliges every governor of a province to take an oath of allegiance, and an oath against bribery, or corrupt entrance into his office, in this form: "I swear by God Almighty, and his only begotten Son our Lord Jesus Christ, and the Holy Ghost, and the most holy glorious mother of God, and ever-Virgin Mary, and by the four gospels which I hold in my hand, and by the holy archangels Michael and Gabriel, that I will keep a pure conscience, and pay faithful and true allegiance to their most sacred majesties Justinian and Theodora his consort, who put me into this office. And I swear by the same oath, that I neither gave, nor will give, nor promised to give, any thing to any one whatsoever for his patronage or assistance in procuring me this administration ;

^o Justin. Novell. ix. (Corp. Jur. Civ. Amstel. 1663. p. 27.) Ὁμνυμι ἐγὼ τὸν Θεὸν τὸν παντοκράτορα, καὶ τὸν υἱὸν αὐτοῦ τὸν μονογενῆ Ἰησοῦν Χριστὸν τὸν Θεὸν ἡμῶν, καὶ τὸ ἅγιον Πνεῦμα, καὶ τὴν ἁγίαν ἑνδοξον θεοτόκον καὶ ἀειπαρθένον Μαρίαν, καὶ τὰ τέσσαρα εὐαγγέλια, ἃ ἐν ταῖς χερσὶ μου κρατῶ, καὶ τοὺς ἁγίους ἀρχαγγέλους Μιχαὴλ καὶ Γαβριὴλ, ὡς καθαρὸν συνειδὼς καὶ γνησίαν δουλείαν φυλάξω τοῖς θειοτάτοις καὶ εὐσεβεστάτοις ἡμῶν δεσπόταις, Ἰουστινιανῷ καὶ Θεοδώρα τῇ ὁμοζύγῳ τοῦ αὐτοῦ κράτους, προφάσει τῆς παραδεδομένης μοι παρὰ τῆς αὐτῶν εὐσεβείας ἀρχῆς· καὶ πάντα πόνον καὶ κάματον μετ' εὐνοίας ἀδόλως καὶ δίχα τέχνης τινὸς ἀναδέχομαι ἐπὶ τῇ δοθείσῃ μοι παρ' αὐτῶν ἀρχῇ, ὑπὲρ τῆς αὐτῶν βασιλείας καὶ πολιτείας. . ὁμνυμι δὲ τοὺς αὐτοὺς ὄρκους, ὡς οὐδενὶ παντελῶς οὔτε δίδωκα οὔτε δώσω, προφάσει τῆς δεδομένης μοι ἀρχῆς· οὔτε προφάσει προστασίας, οὐδὲ ἐπηγγειλάμην, οὔτε ὡμολόγησα ἐκ τῆς ἐπαρχίας πέμπειν· οὔτε πέμψω· οὔτε προφάσει δεσποτικοῦ suffragίου, οὔτε τοῖς ἐνδοξοτάτοις ὑπάρχοις, οὔτε τοῖς ἄλλοις πανευφύμοις ἀνδράσι τοῖς τὰς ἀρχὰς ἔχουσιν, οὔτε τοῖς περὶ αὐτοὺς καθιστώσιν, οὐδὲ ἄλλῃ τῶν πάντων οὐδενί· ἀλλ' ὥσπερ ἄμισθον παρέλαβον τὴν ἀρχὴν, οὕτω καὶ καθαρὸς φανοῦμαι περὶ τοὺς ὑποτελεῖς τῶν εὐσεβεστάτων ἡμῶν δεσποτῶν, ἀρκοῦμενος ταῖς ἀφωρισμέναις μοι ἐκ τοῦ δημοσίου σιτήσεσι.

but as I received it without bribery, so I will execute it with purity, being content with the public salary that is appointed me." The matter of this oath is exceeding good; but it must be confessed the form of it is a deviation from the purity and simplicity of former ages, when oaths were only made in the name of God, as a speciality of divine worship peculiarly belonging to him. This is the first instance I remember, of any oath of this kind allowed in the Church: and it serves to show in how short a time corruptions may gain ground by authority: for that which was reputed sacrilege and impiety in the time of Optatus, was now become an instance of singular devotion to the archangels and the Virgin Mary. There are many other things might be noted concerning oaths; but here I only speak of such things, as relate to the discipline of the Church.

SECT. VIII.—*Of Perjury, and its punishment.*

The next great crime that might be committed against the name and majesty of God, was perjury: which might be committed either at the time of taking the oath, by swearing to a false thing, or swearing to do some wicked and unlawful thing; or else afterward, by not performing what a man lawfully might, when he was solemnly engaged upon oath to do it. He that swore to do an unlawful thing, as suppose to live in perpetual enmity with another man, and never be reconciled to him, was by the Council of Lerida^p to be cast out of communion a whole year for his perjury, and obliged to repent of his unlawful oath, and be reconciled to his brother. For in this case, as the fathers and canons^q determine, the unlawful oath was not to be kept, lest it should involve him, like Herod, in a double or triple sin; but he was to rescind his oath, and repent of his perjury, which was better than to add one sin to another under pretence of piety and religion. In this case, the

^p Concil. Ilerdens. c. vii. (Labbé, vol. vi. p. 1612.) Qui sacramento se obligaverit, ut litigans cum quolibet ad pacem nullo modo redeat, pro perjurio uno anno a communione sanguinis et corporis Dominici segregatus, reatum suum fletibus, eleemosynis, et quantis potuerit jejuniis, absolvat [abluat].

^q Vide Concil. Tolet. VIII. c. ii. (Labbé, vol. vi. p. 403.): where the testimonies of St. Ambrose, St. Austin, Gregory, and Isidore, are cited at large to this purpose. As also in Gratian. Caus. xxii. quest. 4.

penance was so much the shorter, because men were supposed by some hasty passion to be involved rashly in this guilt, and not by any settled consideration.

But, in other cases, perjury in attesting a false thing, or not performing a lawful oath, was more severely treated. For Chrysostom^r reckons perjury in the same class with murder, fornication and adultery. And St. Basil^s imposes eleven years' penance upon those that were guilty of it: "The perjured person shall be a mourner two years, an hearer three, a prostrator four, a co-stander one." The first Council of Maseon^t orders those that drew others into false witness or perjury, to be cast out of communion to the hour of death; and those that were so drawn in, to be for ever after incapable of giving testimony, and to be noted as infamous persons according to the laws: meaning probably, the laws of the state, as well as the laws of the Church. For, as Gothofred shows at large, the civil law under the old Romans, set the brand of infamy upon all such perjured persons; and Honorius added several other penalties^u to give new vigor to the ancient laws, and make them more effectual. I cannot here omit the relation which Eusebius gives of the divine vengeance pursuing three perjured villains, who combined together to swear to a false accusation,

^r Chrysost. Homil. xvii. in Matth. p. 182. (p. 222. c. sub fin. edit. Francof.) It. Homil. xxii. ad popul. Antiochen. tom. i. p. 294. (p. 261, edit. Francof.)

^s Basil. can. lxiv. (Labbé, vol. ii. p. 1749.) Ἐπίορκος, ἐν δέκα ἔτεσιν ἀκοινωνήτος ἔσται· δυσὶν ἔτει προσκλαίων, τρισὶν ἀκροώμενος, τέσσαρσιν ὑποπίπτων, ἐνιαυτὸν συνεστῶς μόνον, καὶ τότε τῆς κοινωνίας ἀξιώμενος.

^t Concil. Matiscon. l. c. xvii. (Labbé, vol. v. p. 970.) Si quis convictus fuerit alios ad falsum testimonium vel perjurium attraxisse, ipse quidem usque ad exitum non communicet: hi vero, qui ei in perjurio consensisse probantur, post ab omni sunt testimonio prohibendi, et secundum legem infamia notabuntur.

^u Cod. Theod. lib. ii. tit. ix. de Pactis, leg. viii. (Lugdun. 1665. vol. i. p. 133.) Si quis major annis adversus pacta vel transactiones, nullo cogentis imperio, sed libero arbitrio et voluntate confecta, putaverit esse veniendum, vel interpellando judicem, vel supplicando principibus: vel non implendo promissa ea, quæ, invocato nomine Dei omnipotentis, eo auctore solidaverit, non solum inuratur infamia, verum etiam actione privatus, restituta poena, quæ pactis probatur inserta, earum rerum et proprietate careat et emolumento, quod ex pacto vel transactione illa fuerit consequutus. Quæ omnia mox eorum commodo deputabuntur, qui intemerati pacti jura servaverint. Vide Gothofred. in loc. p. 134—137.

which they had plotted before-hand against Narcissus bishop of Jerusalem; because it shows, that when Church-discipline cannot take effect for want of evidence against the criminal, Providence is sometimes pleased to interpose, and revenge this crime by an immediate divine judgment. "Three men, (he says,)* who were afraid to be called in question by the bishop, and punished for their wicked lives, resolved to be beforehand with him, by contriving and bringing an heavy accusation against him. And to gain credit to their accusation before the Church, they each confirmed it with a solemn oath. One of them wished, that 'if he swore falsely, he might perish by fire;' another, that 'his body might be consumed by some pestilential disease;' and the third, that 'he might lose his eyes.' The Church gave no credit to their oaths, as knowing the bishop to be of a clear and unblameable life: however, he being not able to bear the calumny, and being otherwise of a long time desirous of a retired life, he thereupon withdrew into the wilderness, leaving his Church, to live the life of a hermit. But the great eye of justice did not thus suffer the matter to rest, but presently revenged the miscreants with the curses

* Euseb. lib. vi. c. ix. (Vales. 1695. p. 171. A 9.) Τὸ εὐτονον αὐτοῦ καὶ στεφρὸν τοῦ βίου φαυλοὶ τινες ἀνθρωπίσκοι μὴ οἰοί τε φέρειν, δέει τοῦ μὴ δίκην ὑποσχεῖν ἀλόντας, διὰ τὸ μυρία κακὰ ἑαυτοῖς συνειδέναι, συσκευῇν κατ' αὐτοῦ προλαβόντες συρράπτουσι καὶ τινα δεινὴν καταχέουσιν αὐτοῦ διαβολήν· εἰτα πιστούμενοι τοὺς ἀκρωμένους, ὄρκους ἰβεβαίουν τὰς κατηγορίας· καὶ ὁ μὲν ἡ μὴν ἀπόλοιτο πυρὶ ὥμνυν· ὁ δὲ ἡ μὴν σκαίῃ νόσῳ δαπανηθῇ τὸ σῶμα· ὁ δὲ τρίτος ἡ μὴν τὰς ὁράσεις πηρωθῇ· ἀλλ' οὐδ' οὕτως αὐτοῖς καίπερ ὁμνύουσι τῶν πιστῶν τις προσεῖχε τὸν νοῦν, διὰ τὴν εἰς πάντας λάμπουσαν ἐκ τοῦ παντὸς σωφροσύνην τε καὶ πανάρετον ἀγωγὴν τοῦ Ναρκίσσου. αὐτὸς γὰρ μὴν τὴν τῶν εἰρημένων μυδαμῶς ὑπομένων μοχθηρίαν· καὶ ἄλλως ἐκ μακροῦ τὸν φιλόσοφον ἀσπαζόμενος βίον· διαδράς πᾶν τὸ τῆς ἐκκλησίας πλῆθος, ἐν ἐρημίαις καὶ ἀφανέσιν ἀγροῖς λανθάνων, πλείστοις ἔτεσι διέτριβεν. ἀλλ' οὐ καὶ ὁ τῆς δίκης μέγας ὁφθαλμὸς ἐπὶ τοῖς πεπραγμένοις ἡρέμει· μετῆι δὲ ὡς τάχιστα τοὺς ἀσεβεῖς, αἷς καθ' ἑαυτῶν ἐπιωρκοῦντες κατεδῆσαντο ἀραῖς. ὁ μὲν οὖν πρῶτος, ἐκ μηδεμίας προφάσεως ἀπλῶς οὕτω σμικροῦ διαπιστόντος, ἐφ' ἧς κατέμενεν οἰκίας σπινθῆρος, νύκτωρ ὑφαφθείσης ἀπάσης παγγενῇ καταφλέγεται· ὁ δὲ ἀθρόως τὸ σῶμα ἐξ ἄκρων ποδῶν ἐπὶ κεφαλὴν, ἧς αὐτὸς προσετίμησεν ἑαυτῷ νόσου πίμπλαται· ὁ δὲ τρίτος τὰς τῶν προτέρων συνιδὼν ἐκβάσεις, καὶ τοῦ πάντων ἐφόρου Θεοῦ τρέσας τὴν ἀδιάδραστον δίκην, ὠμολόγει μὲν τοῖς πᾶσι τὰ κοινῇ σφίσιν αὐτοῖς ἐσκαιρημένα· τοσαύταις δὲ κατετρίχτο μεταμελόμενος οἰμωγαῖς, δακρύων τε ἐς τοσοῦτον οὐκ ἀπέλιπεν, ἕως ἄμφω διεφθάρη τὰς ψυχάς.

they had imprecated upon themselves. For the first by a little spark of fire, that casually happened in his house, and whereof no one could give any account, was in the night, himself, family, and house, universally burnt to ashes: the second was, from the sole of the foot to the crown of his head, over-run and consumed by the same pestilential disease which he had wished upon himself: and the third seeing what had befallen the other two, and fearing the inevitable vengeance of the all-seeing God, confessed the whole plot and contrivance of the calumny which they had formed: and he testified his repentance with so deep a sorrow, that with the multitude of his tears he lost his sight." Thus these perjured wretches were punished by the hand of God, when ecclesiastical censure, for want of evidence, could not touch them.

SECT. IX.—*Of breach of Vows.*

The last transgression of this commandment, that was punished with ecclesiastical censure, was breach of vows, or promises solemnly made to God. And this was both in things and persons. If a man vowed to give his estate, or any part of it, to the service of God; it was a breach of vow, including sacrilege, to retract it. Ananias was severely censured for this, in such an extraordinary way by the apostolical rod and mouth of St. Peter, as, in St. Basil's judgment,^y left him no room for repentance. The Church, in after ages, could not punish such delinquents in that extraordinary manner: but as every such breach of vow was a piece of sacrilege, as well as perfidiousness and perjury, we may be sure the common penalties that were inflicted on those two crimes singly, were no less carefully imposed on this crime, where they centred both in combination. There was also a breach of vow, which concerned the dedication of persons to God. The clergy were supposed to be more peculiarly God's inheritance, dedicating

^y Basil. Hom. de Institut. Monach. (Paris. 1637. tom. ii. Opp. p. 509. C 7.)
 'Εξῆν γὰρ τῷ Ἀνανίᾳ τὴν ἀρχὴν μὴ ἐπαγγεῖλασθαι τῷ Θεῷ τὴν κτῆσιν· ἀλλ' ἐπειδὴν πρὸς τὴν ἀνθρωπίνην ἀπιδὼν δόξαν, τὸ μὲν κτῆμα διὰ τῆς ἐπαγγελίας τῷ Θεῷ ἀφιέρωσεν, ὥς ἂν θαυμάσθῃ παρὰ τῶν ἀνθρώπων ἐπὶ τῇ φιλοτιμίᾳ τοῦ τιμῆματος δὲ ἐνοσφίσας τοιαύτην ἐκίνησε καθ' ἑαυτοῦ τοῦ Κυρίου τὴν ἀγανάκτησιν [ἣς ὑπερέτης ὁ Πέτρος ἦν] ὥς μὴδὲ μετανοίας θύραν εὑρεῖν.

themselves by a solemn act of their own voluntary choice to the ministry of his Church: and therefore none of this order were allowed to desert their station, and turn seculars again, upon the severest penalty of excommunication: as appears from the rules of the general Council of Chalcedon^z and the Council of Tours.^a Which the laws of the state confirmed by proper sanctions^b of a civil nature, ordering all such deserters to be delivered up to the Curia of their city, to serve there all their lives; and to forfeit all such estates as they were possessed of, to the Church or monastery to which they belonged. For the same penalties were inflicted on monks and consecrated virgins and widows, who, by any solemn vow, had bid adieu to the world, and had betaken themselves to the ascetic life. If after this, they married and returned to a secular life; though the church did not annul their marriage, under the notion of being adulterous, (which is now commonly done in the Romish communion) yet she imposed a certain penance upon them as guilty of perfidiousness and breach of vow. The Council of Chalcedon^c orders both monks and virgins to be excommunicated, if they married after their solemn consecration and profession. St. Basil says,^d they “were to

^z Concil. Chalcedon. can. vii. (Labbé, vol. iv. p. 759.) *Τοὺς ἀπαξ ἐν κλήρῳ κατελεγμένους, ἧ καὶ μονάζοντας, ὥρισamen, μήτε ἐπὶ στρατείαν, μήτε ἐπὶ ἀξίαν κοσμηὴν ἔρχεσθαι· ἢ τοῦτο τολμῶντας, καὶ μὴ μεταμελουμένους, ὥστε ἐπιστρέψαι ἐπὶ τοῦτο, ὃ διὰ Θεὸν πρότερον εἶλοντο, ἀναθεματίζεσθαι.*

^a Concil. Turon. c. v. Si quis clericus, relicto officii sui ordine, laicam voluerit agere vitam, vel se militiæ tradiderit, excommunicationis poena feriat.

^b Cod. Theod. lib. vi. tit. ii. de Episcopis, leg. xxxix. Cod. Justin. lib. i. tit. iii. de Episc. leg. lv. Vide lib. vi. c. iv. § i. vol. ii. p. 174.

^c Conc. Chalcedon. c. xvi. (Labbé, vol. iv. p. 763.) *Παρθένον ἐαυτὴν ἀναθεῖσαν τῷ δεσπότηι Θεῷ, ὡσαύτως δὲ καὶ μονάζοντα, μὴ ἐξεῖναι γάμψ προσομιλεῖν· εἰ δὲ γε εὐρεθῇεν τοῦτο ποιῶντες, ἴστωσαν ἀκοινῶνῃτοι.*—Concil. Tolet. IV. c. lii. (v. 1718.) *Nonnulli monachorum, egredientes a monasterio, non solum ad sæculum revertuntur, sed etiam uxores accipiunt. Hi igitur revocati, in eodem monasterio, a quo exierunt, pœnitentiæ deputentur, ibique defleant crimina sua, unde decesserunt.*—Leo, Epist. xcii. ad Rustic. c. xii. *Contrarium est omnino ecclesiasticis regulis, post pœnitentiæ actionem redire ad militiam sæcularem, quum apostolus dicat: ‘Nemo militans Deo implicet se negotiis sæcularibus.’ Unde non est liber a laqueis diaboli, qui se militia mundana voluerit implicare.*—Concil. Ancyran. c. xix. (Labbé, vol. i. p. 1464.) *“Οσοι παρθενίαν ἐπαγγελόμενοι, ἀθετοῦσι τὴν ἐπαγγελίαν, τὸν τῶν διγάμων ὅρον ἐκπληροῦντων.*

^d Basil. can. lx. (Labbé, vol. ii. p. 1749.) *Παρθένος ὁμολογήσασα, καὶ ἐκπεσοῦσα τῆς ἐπαγγελίας, τὸν χρόνον τοῦ ἐπὶ τῆς μοιχείας ἀμαρτήματος ἐν τῷ*

do the penance of fornicators or adulterers." Not that he reckoned their marriage fornication or adultery, but only to assign the term of their penance. For as we have showed elsewhere¹ out of St. Austin,^e such marriages were never reputed adultery, but true marriages, and therefore not annulled by any rule of the ancient Church: though now by the authority of the Council of Trent, the contrary practice prevails in the Romish Church, where all such marriages are reversed, and the parties obliged to separate from one another.

CHAPTER VIII.

OF SINS AGAINST THE FOURTH COMMANDMENT, OR VIOLATIONS OF THE LAW ENJOINING THE RELIGIOUS OBSERVATION OF THE LORD'S-DAY.

SECT. I.—*Absenting from religious assemblies on the Lord's-Day, how punished by the laws of the Church.*

SOMETHING has already been noted concerning the religious observation of the Lord's-Day in a former book,² and more will be said hereafter, when we come to speak of the festivals, of which this was always reckoned the principal in the Christian Church. Here therefore our present subject only requires us to remark such violations of the law enjoining the religious observation of the Lord's-Day, as made men liable to ecclesiastical censure. And first, it being a rule, that men should meet together, to celebrate all divine offices in public on the Lord's-Day; the voluntary absenting from this service, either in whole, or in part, was ever reputed a crime worthy of ecclesiastical censure. To absent wholly, as heretics and schis-

οἰκονομία τῆς καθ' ἑαυτὴν ζωῆς πληρώσει· τὸ αὐτὸ καὶ ἐπὶ τῶν βίον μονάζοντα ἡπαγγελλομένων, καὶ ἐκπιπτόντων.

¹ Lib. vii. c. iii. § xxiii. vol. ii. p. 317.

^e Augustin. de Bono Viduit. c. x. (Bened. 1706. vol. vi. p. 275. F 2.) Qui dicunt talium nuptias non esse nuptias, sed potius adulteria, non mihi videntur satis acute ac diligenter considerare, quid dicant: fallit eos quippe similitudo veritatis. etc.

² Lib. xiii. c. ix. § i. vol. iv. p. 350. seqq.

matics did, by a chosen separation, though they met in private conventicles of their own, was esteemed such a violation of the law, as the Church thought fit to punish with the severest censure of anathema: as appears from several canons of the Council of Gangra;^a which having been related at length before,¹ I need not here repeat them. Secondly, if men, who were otherwise orthodox, neglected for any considerable time to frequent the Church on the Lord's-Day, this was a misdemeanour deserving to be corrected by a judicial suspension from the communion. This may be seen in the canons of Eliberis,^b Sardica,^c and the Council of Trullo;^d which, for the same reason, I forbear to recite.

SECT. II.—*Of frequenting some part of the Lord's-Day Service, and neglecting the rest.*

Thirdly, to frequent some part of divine service on the Lord's-Day, and neglect or withdraw from the rest, was, in those days, a crime of a very high nature, and punishable with excommunication. This is evident from those called the Apostolical Canons, one of which orders,^e that 'all communicants who came to church to hear the sermon and the Scriptures read, but did not stay to join in the prayers and receive the Eucharist, should be suspended, as authors of confusion and disorder in the Church.' The same is decreed in the Council of Antioch,^f in the same terms, and under the same penalty. The Council of Eliberis^g forbids the bishop to receive the oblations of such as did not communicate; which was, in effect, to exclude them from the communion of the Church.

^a Concil. Gangrens. c. v. vi. vii. &c. (Labbé, vol. ii. p. 413.)

¹ Supra, c. i. § v. vol. v. p. 389.

^b Concil. Illiberit. c. xxi. ibid. p. 390.

^c Concil. Sardic. c. xi. ibid. p. 391.

^d Concil. Trull. c. lxxx. ibid. p. 391.

^e Canon. Apost. c. ix. See the Greek, vol. v. p. 390. Cunctos fideles, qui in sanctam Dei ecclesiam ingrediuntur et sacras scripturas audiunt, non autem perseverant in oratione et sancta communione, velut in ecclesiam inducentes confusionem, segregari oportet. (See Labbé, vol. i. p. 48.)

^f Concil. Antioch. c. ii. ibid. p. 390.

^g Concil. Illiberit. c. xxviii. Episcopum, placuit, ab eo qui non communicat, munera non accipere debere. (See vol. v. p. 390.)

And the first Council of Toledo^b orders "such as come to church, but neglect to frequent the communion, to be admonished; and if upon admonition they amend not, then to put them under public penance, as great offenders." And another canonⁱ of the same council adds, that "if any present themselves to the communion, and take the Eucharist at the hands of the priest, and yet forbear to eat it, they shall be driven out of the church as sacrilegious persons." All these canons suppose, what we have fully evinced in a former book,¹ that the celebration of the Eucharist was a standing part of divine service every Lord's-Day; and that every Christian communicant, who was not under penance, was obliged to partake thereof, to fulfil the duty he owed to God upon this day: and therefore all such as neglected this part of divine worship, were to be censured as transgressors, for contemning one principal part of the religious observation of the Lord's-Day. I cannot write this without lamenting the hard fate of many pious persons in the present age, whose disposition would incline them to be constant communicants every Lord's-Day; but they want opportunity, in the present posture of affairs, to execute their good designs. Such must content themselves with that of the Apostle, "If there be first a willing mind, it is accepted according to that a man hath, and not according to that he hath not;" and in the mean time, pray to God to find out a method, in his good providence, to restore the ancient discipline and primitive fervour. But I proceed.

SECT. III.—*Fasting on the Lord's-Day prohibited under pain of Excommunication.*

It was an ancient and general custom in the primitive Church to keep the Lord's-Day as a festival, and day of rejoicing, in memory of our Saviour's resurrection; and never to fast on

^b Concil. Toletan. I. c. xiii. (Labbé, vol. ii. p. 1225.) De his, qui intrant in ecclesiam, et deprehenduntur numquam communicare, admoneantur, ut si non communicant, ad poenitentiam accedant.

ⁱ Ibid. c. xiv. (Labbé, vol. ii. p. 1225.) Si quis autem acceptam a sacerdote eucharistiam non sumserit, velut sacrilegus propellatur.

¹ Lib. xv. c. ix. vol. v. p. 347. seqq.

that day, no not even in the time of Lent. And, therefore, to fast perversely on this day was always reputed a crime deserving ecclesiastical censure. Tertullian^k says, "They counted it a crime to fast on the Lord's-Day." And he remarks, "That even the Montanists, who were the most rigid in observing their times of fasting, omitted^l both Saturday and Sunday throughout the year." For though they observed three Lents, and two weeks of Xerophagia, or dry meats besides, yet they excepted the Sabbath or Saturday, and the Lord's-Day, from these laws of fasting. St. Ambrose likewise tells us,^m that "the Catholics were used to except these two days in their Lent fasts. They never fasted on the Lord's-Day, but thought they had reason to condemn the Manichees forⁿ so doing: for to appoint that day to be a fast-day was, in effect, to disbelieve the resurrection of Christ." Several other heretics beside the Manichees were condemned for this practice by the second Council of Braga:^o they particularly name the Cerdonians, Marcionites, and Priscillianists, whom they anathematize upon this account, as fasting on the day of Christ's nativity and the Lord's-Day, because they did this in derogation to the truth of Christ's human nature. Pope Leo notes the Priscillianists^p upon the same account. And the

^k Tertull. de Coron. Milit. c. iii. (Paris. 1664. p. 101.) Die dominico jejulare nefas ducimus.

^l Id. de Jejun. advers. Psychicos, c. xv. (Paris. 1664. p. 532.) Duas in anno hebdomadas xerophagiarum, nec totas, exceptis scilicet sabbatis et dominicis, Deo offerimus.

^m Ambros. de Elia et Jejunio, c. x. Quadragesimæ totis, præter sabbatum et dominicam, jejunatur diebus.

ⁿ Ambros. epist. l. Dominica, jejunare non possum, quia Manichæos etiam ob istius diei jejunia jure damnamus. Hoc enim est in resurrectionem Christi non credere, si quis legem jejunii die resurrectionis indicat.

^o Concil. Bracar. II. c. iv. Si quis natalem Christi secundum carnem non vere [bene] honoret, sed honorare se simulet, jejunans eodem die et in dominico; quia Christum in vera hominis natura natum esse non credit, sicut Cerdon, Marcion, Manichæus et Priscillianus; anathema sit. (Labbé, vol. v. p. 637.)

^p Leo, Epist. xciii. ad Turibium, c. iv. (Lugd. 1700. p. 228.) Quarto capitulo continetur, quod natalem Christi, quem secundum susceptionem veri hominis catholica ecclesia venerat, quia 'Verbum caro factum est et habitavit in nobis,' non vere isti honorent, sed honorare se simulent, jejunantes eodem die, sicut et die dominico, qui est dies resurrectionis Christi. Quod utique ideo faciunt, quia Christum Dominum in vera hominis natura natum esse non credunt, sed

fourth Council of Carthage^q censures them as no Catholics, who choose to fast upon this day. St. Austin^r not only says, "That it was the custom of the whole catholic Church to abstain from fasting on this day, but that no one could do otherwise without giving great scandal to the Church, because the impious Manichees had chosen this day particularly^s to fast upon in opposition to the Church." Upon these grounds and reasons, the canons are very severe in their censures of such transgressors: "If any one fast on the Lord's-Day," says the Council of Gangra,^t "though it be under pretence of leading an ascetic life, let him be anathema." In like manner the Apostolical Canons,^u "If any clergyman fast on the Lord's-Day, or Sabbath (one only excepted, viz. the Sabbath before Easter), let him be deposed. If he be a layman, let him be cast out of the communion of the Church." And this is repeated in the Council of Trullo,^x and other rules of the ancient Church.

per quamdam illusionem ostentata videri volunt, quæ vera non fuerint; sequentes dogmata Cerdonis atque Marcionis, et cognatis suis Manichæis per omnia consonantes. Qui, sicut in nostro examine detecti atque convicti sunt, dominicum diem, quem nobis Salvatoris nostri resurrectio consecravit, exigunt in morore jejunii; Solis, (ut proditum est) reverentiæ hanc continentiam devoventes; ut per omnia sint a nostræ fidei unitate discordes; et dies, qui a nobis in lætitia habetur, ab illis in adflictione ducatur. Unde dignum est, ut inimici crucis et resurrectionis Christi talem excipiant sententiam, qualem elegerunt doctrinam.

^q Concil. Carthag. IV. c. lxiv. Qui dominico die studiose jejunat, non credatur catholicus. (Labbé, vol. ii. p. 1205.)

^r Augustin. epist. cxix. ad Jan. c. xv. (Bened. 1700. vol. ii. p. 105.) Propter hoc et jejunia relaxantur, et stantes oramus, quod est signum resurrectionis, (unde etiam omnibus diebus dominicis id ad altare observatur,) et halleluja canitur, etc.

^s Augustin. epist. lxxxvi. ad Casulan. (Bened. 1700. vol. ii. p. 59. F 9.) (p. 390, edit. Basil.) Die dominico jejunare scandalum est magnum, maxime posteaquam innotuit detestabilis multumque fidei catholicæ scripturisque divinis apertissime contraria hæresis Manichæorum, qui suis auditoribus ad jejunandum istum tamquam constituerunt legitimum diem, per quod factum est, ut jejunium diei dominici horribilius haberetur.

^t Concil. Gangrens. c. xviii. (Labbé, vol. ii. p. 424.) Εἰ τις διὰ νομιζομένην ἀσκησιν ἐν τῇ κυριακῇ νηστεύει, ἀνάθεμα ἔστω.

^u Can. Apost. lxv. (Labbé, vol. i. p. 40.) Εἰ τις κληρικὸς εὐρεθῇ τὴν κυριακὴν ἡμέραν ἢ τὸ σάββατον, πλὴν τοῦ ἐνὸς μόνου, νηστεύων, καθαιρεῖσθω· ἐὰν δὲ λαϊκὸς ᾖ, ἀφοριζέσθω.

^x Concil. Trull. c. lv. (Labbé, vol. vi. p. 1167.) Ἐπειδὴ μεμαθήκαμεν ἐν τῇ Ῥωμαίων πόλει ἐν ταῖς ἀγίαις τῆς τεσσαρακοστῆς νηστείαις τοῖς ταύτης

SECT. IV.—*Frequenting the Theatre and other shows and pastimes on this day, how punished.*

There were many other rules made by the ancients for the decent observation of the Lord's-Day: as that men should abstain from all unnecessary bodily labour; that all lawsuits and pleadings and prosecutions should cease upon this day; that divine service should be performed standing, in memory of our Saviour's resurrection. But as the transgressions of these rules are not usually mentioned with the same commination of ecclesiastical punishments, the consideration of them belongs not to this head, but shall be reserved for its proper place, under the title of Festivals, where the observation of the Lord's-Day will come again more particularly to be considered. But there is one thing more that must not here be omitted: which is, that when men neglected the public service of God, to follow vain sports and pastimes on this day, this was thought a crime worthy to be corrected by the severest censures of the Church. The imperial laws forbad all public games and shows on this day. Theodosius the Great^y speaks of two laws made by himself to this purpose. And Theodosius Junior made another,^z wherein he not only forbids the ex-

σάββασι νηστεύειν παρὰ τὴν παραδοθεῖσαν ἐκκλησιαστικὴν ἀκολουθίαν, ἔδοξε τῇ ἀγίᾳ συνόδῳ, ὥστε κρατεῖν καὶ ἐπὶ τῇ Ῥωμαίων ἐκκλησίᾳ ἀπαρασλεύτως τὸν κανόνα τὸν λέγοντα, Εἴ τις κληρικὸς, κ. τ. λ.—Concil. Cæsar-August. c. ii. (Labbé, vol. ii. p. 1009.) Ne quis jejundet die dominica, causa temporis (al. timoris) aut persuasionis, aut superstitionis, etc.

^y Cod. Theod. lib. xv. tit. v. de Spectaculis, leg. ii. (Lugdun. 1665. vol. v. p. 350.) Illud etiam præmonemus, ne quis in legem nostram, quam dudum tulimus, committat: Nullus solis die populo spectacula præbeat, nec divinam venerationem confecta solemnitate confundat.

^z Ibid. leg. v. (Lugdun. 1665. vol. v. p. 353.) Dominico, (qui septimanæ totius primus est dies,) et natale, atque epiphaniarum Christi, paschæ etiam et quinquagesimæ diebus . . . omni theatrorum atque circensium voluptate populis denegata, totæ Christianorum ac fidelium mentes cultibus Dei occupantur, etc. —Justin. lib. iii. tit. xii. de Feriis, leg. xi. (Amstel. 1663. p. 89.) Dies festos majestati altissimæ dedicatos, nullis volumus voluptatibus occupari, nec ullis exactionum vexationibus profanari. Dominicum itaque diem ita semper honorabilem decernimus, et venerandum, ut a cunctis exsequutionibus excusetur: nulla quemquam urgeat admonitio: nulla fidejussionis flagitetur exactio: taceat apparitio: advocatio delitescat: sit ille dies a cognitionibus alienus: præconis horrida vox silescat: respirent a controversiis litigantes, et habeant fœderis intervallum: ad sese simul veniant adversarii non timentes, subeat animos vicaria pœnitudo: pacta

hibiting of the shows on the Lord's-Day, but on the other great festivals, the Nativity, Epiphany, Easter, and Pentecost. But no penalties being annexed to these laws, there was still occasion for the laws of the Church to restrain men by ecclesiastical censures. And therefore the canons made this crime to be noted as a heinous offence, and punished the transgressors with excommunication. "If any one, on a solemn day," says the fourth Council of Carthage,^a "leave the solemn assembly of the church, to go to the shows, let him be excommunicated." And another canon^b excommunicates those who leave the church whilst the bishop is preaching. The fifth Council of Carthage, as it is related in the African Code,^c petitioned the Emperor Honorius to forbid all theatrical shows on the Lord's-Day and all the great festivals. St. Chrysostom^d calls them *σατανικά συνέδρια*, 'the conventions of Satan,' and tells his auditory, "he would no longer use gentle remedies, but stypticks and caustics, to put a stop to the raging distemper. They that continued in this crime after this formal admonition, should be no longer endured, but feel the weight

conferant, transactiones loquantur. Nec hujus tamen religiosi diei otia relaxantes, obscenis quemquam patimur voluptatibus detineri. Nihil eodem die sibi vindicet scena theatralis, aut circense certamen, aut ferarum lacrimosa spectacula : et si in nostrum ortum, aut natalem celebranda solennitas inciderit, differatur. Amissionem militiæ, proscriptionemque patrimonii sustinebit, si quis unquam hoc die festo spectaculis interesse, vel cujuscumque judicis apparitor prætextu negotii publici, seu privati, hæc, quæ hac lege statuta sunt, crediderit temeranda.

^a Concil. Carth. IV. can. lxxxviii. Qui die solemnî, prætermisso solemnî ecclesiæ conventu, ad spectacula vadit, excommunicetur. (Labbé, ii. p. 1206.)

^b Ibid. c. xxiv. Sacerdote verbum faciente in ecclesia, qui de auditorio egressus fuerit, excommunicetur. (p. 1202.)

^c Cod. Afric. c. lxi. (Labbé, vol. ii. p. 1086.) *Κάκεινο ἐτι μὴν δὲ αἰτῆσαι, ἵνα τὰ θεώρια τῶν θεατρικῶν παιγνίων ἐν τῇ κυριακῇ καὶ ἐν ταῖς λοιπαῖς φαιδραῖς τῆς τῶν Χριστιανῶν πίστεως κωλύονται.*

^d Chrysost. Homil. vi. in Genes. tom. ii. p. 53. A 10. (p. 45, edit. Francof.) *Ἄλλ' ὅπως μὴ πάλιν τοῖς αὐτοῖς περιπέσῃτε, μηδὲ μετὰ τὴν τοσαύτην ἡμῶν παραίνεσιν, πάλιν ἐπὶ τὰ σατανικά συνέδρια ἐκείνα δράμῃτε, ἀναγκαῖον διαμαρτύρασθαι· οὐδὲ γὰρ πάντοτε καλὸν προσηνὴ φάρμακα ἐπιτιθεῖναι, ἀλλ' ὅταν ᾖ τὸ ἔλκος δυσένδοτον, δεῖ καὶ τὰ στυφοντα καὶ τὰ δάκνειν δυνάμενα προσάγειν, ἵνα ταχεῖα γένηται ἡ διόρθωσις. μαθέτωσαν τοίνυν ἅπαντες, οἱ τοῖς ἐγκλήμασιν ὑπεύθυνοι, ὅτι εἰ καὶ μετὰ ταύτην ἡμῶν παραίνεσιν πάλιν τῇ αὐτῇ ῥαθυμίᾳ ἐπιμένωσιν, οὐκ ἀνεξόμεθα, ἀλλὰ τοῖς νόμοις τῆς ἐκκλησίας χρησάμενοι μετὰ πολλῆς αὐτοῦς τῆς σφοδρότητος διδάξομεν μὴ τοιαῦτα πλημμελεῖν, μηδὲ μετὰ τοσαύτης καταφρονήσεως τῶν θείων ἀκούειν λογίων.*

of the ecclesiastical laws, and learn thereby not to contemn the divine oracles." By which it is evident, that though the games and pastimes of the circus and the theatre were still allowed under the Christian emperors, yet they were precisely forbidden on the Lord's-Day: and to frequent them at that time was one of those great transgressions, for which men felt the heaviest censures of the Church.

CHAPTER IX.

OF GREAT TRANSGRESSIONS AGAINST THE FIFTH COMMANDMENT, DISOBEDIENCE TO PARENTS AND MASTERS; TREASON AND REBELLION AGAINST PRINCES: AND CONTEMPT OF THE LAWS OF THE CHURCH.

SECT. I.—*Children not to desert their Parents under pretence of Religion. The censure of such as thought otherwise.*

UNDER the name of parents is commonly understood not only the natural parents, but also the political or civil, that is, magistrates and rulers; as also spiritual parents, that is, the governors of the Church; and economical parents, that is, masters of families; whose authority respectively over their children, subjects, people, and servants, being very great, it was thought proper to secure it not only by the laws of the estate, but also by the laws and spiritual censures of the Church.

Children, by the old Roman law, were esteemed so much the property and possession of their parents, that they had power of life and death^a over them; and also might sell them to be slaves without redemption^b in cases of extreme necessity

^a Cod. Justin. lib. viii. tit. xlvii. de Patria Potest. leg. x. Patribus jus vitæ in liberos necisque potestas [olim] erat permissa.

^b Cod. Theod. lib. iii. tit. iii. (Lugdun. 1665. vol. i. p. 257.) de parentibus, qui suos filios distraxerunt, leg. i. Omnes, quos parentum miseranda fortuna in servitium, dum victum requirunt, addixit, ingenuitati pristinae reformatur, etc. Lib. v. tit. viii. de his, qui sanguinolentos emtos vel nutriendos acceperunt. Secundum statuta priorum principum, si quis a sanguine quoquo modo legitime comparaverit, vel nutriendum putaverit, obtinendi ejus servitii habeat potestatem:

for their own maintenance ; as appears from several laws in both the codes ; and the complaints made by the ancients^c of this hardship ; and the allusion which our Saviour makes in the parable to the like custom among the Jews, Matt. xviii. where the Lord commands his debtor to be sold, and his wife and children and all that he had, and payment to be made. And though the laws of Christian emperors a little restrained this exorbitant power of parents ; taking from them the power of life and death ; and allowing children^d to be maintained out of the public revenue, to prevent being sold ; or to be redeemed again, if sold ; yet still they left a considerable power in the hands of parents to dispose of their children, whilst they were minors or under age, only excepting the cases

(ita ut si quis post seriem annorum ad libertatem eum repetat, vel servum defendat, ejusdem modi alium præstet, aut pretium, quod potest valere, exsolvat,) etc. Lib. xi. tit. xxvii. de alimentis, quæ inopes parentes de publico petere debent. leg. i. (iv. 188.) *Æreis tabulis, vel cerussatis, aut linteis mappis, scripta per omnes civitates Italiæ proponatur lex, quæ parentum manus a parricidio arceat, votumque vertat in melius : officiumque tuum (vicarium Italiæ intelligit) hæc cura perstringat, Ut si quis parens adferat sobolem, quam pro paupertate educare non possit, nec in alimentis, nec in veste impertienda tardetur, quum educatio nascentis infantis moras ferre non possit : ad quam rem, et fiscum nostrum, et rem privatam indiscreta jussimus præbere obsequia. Leg. ii. Provinciales, egestate victus atque alimonis inopia laborantes, liberos suos vendere, vel oppignorare cognovimus : Quisquis igitur hujusmodi reperietur, qui nulla rei familiaris substantiæ fultus est, quique liberos suos ægre ac difficile sustentet, per fiscum nostrum, antequam fiat calamitati obnoxius, adjuvetur : ita ut proconsules, præsidesque, et rationales per universam Africam habeant potestatem, et universis, quos adverterint in egestate miserabili constitutos, stipem necessariam largiantur ; atque ex horreis substantiam protinus tribuant competentem : abhorret enim nostris moribus, ut quemquam fame confici, vel ad indignum facinus prorumpere, concedamus.*

^c Basil. Homil. in Psalm. xiv. Paris. 1638. vol. i. p. 141. B. *Εἶδον ἐγὼ ἐλεεινὸν θέαμα, παῖδας ἐλευθέρους ὑπὲρ χρεῶν πατρικῶν ἐλκομένους εἰς τὸ πρᾶτήριον· οὗκ ἔχεις καταλιπεῖν χρήματα τοῖς παισὶ ; μὴ προσάφῃ καὶ τὴν εὐγένειαν.*

^d Cod. Theod. lib. ix. tit. xv. (Lugdun. 1665. vol. iii. p. 112.) de his, qui parentes vel liberos occiderunt. leg. unica. Si quis in parentis, aut filii, aut omnino adfectionis ejus, quæ nuncupatione parricidii continetur, fata properaverit, sive clam sive palam id fuerit ausus, neque gladio, neque ignibus, neque ulla alia solemnī poena subjugetur, sed insutus culeo, et inter ejus ferales angustias comprehensus, serpentum contuberniis misceatur : et ut regionis qualitas tulerit, vel in vicinum mare, vel amnem projiciatur : ut omni elementorum usu vivus carere incipiat, ut ei cælum superstiti, terra mortuo auferatur. Lib. xi. tit. xxvii. leg. 1 and 2, cit. sub litt. (b).

of slavery and death. For till the time of Justinian, children were not allowed to betake themselves to a monastic life without or against the consent of their parents. Which is evident from the rule of St. Basil * which forbids children to be received into monasteries, unless they were offered by their parents, if their parents were alive. And the Council of Gangra lays an heavy penalty † upon them : “ If any children under pretence of religion forsake their parents, and give them not the honour due unto them, let them be anathema.” This doctrine was taught and propagated by the Eustathian heretics ; who also taught, that women might leave their husbands, and parents desert their children, and take no further care of them, under the same pretence of betaking themselves to a monastic life. Against whom ‡ the same council made several other canons, imposing the like penalty upon them.

SECT. II.—*Children not to marry without consent of their Parents.*

Another branch of paternal power, was the right which parents had to dispose of their children in marriage : which right was so carefully guarded by the imperial laws, that we scarce find any crime so severely revenged, as the violation of it, when children who were under their parents’ power, married without, or against the consent of their parents, or such guardians and tutors as were in the room of them. Witness that famous law of Constantine in the Theodosian Code,^b which

* Basil. Regul. fusius disp. Quæst. xv. (Paris. 1637. vol. ii. p. 553.) Τὰ δὲ ὑπὸ γονεῖς ὄντα, παρ’ αὐτῶν ἐκείνων προσαγόμενα, ἐπὶ πολλῶν μαρτύρων δεχόμενοι, ὥστε μὴ δοῦναι ἀφορμὴν τοῖς θίλουσιν ἀφορμὴν.

† Concl. Gangrens. c. xvi. (Labbé, vol. ii. p. 424.) Εἰ τινα τέκνα γονέων, μάλιστα πιστῶν, ἀναχωροῖη προφάσει θεοσεβείας, καὶ μὴ τὴν καθήκουσαν τιμὴν τοῖς γονεῦσιν ἀπονέμοι, προτιμωμένης δηλονότι παρ’ αὐτοῖς τῆς θεοσεβείας, ἀνάθεμα ἔστω.

‡ Ibid. can. xiv. (Labbé, vol. ii. p. 422.) Εἰ τις γυνὴ καταλιμπάνοι τὸν ἄνδρα, καὶ ἀναχωρεῖν ἐθέλοι, βδελυττομένη τὸν γάμον, ἀνάθεμα ἔστω.—Can. xv. Εἰ τις καταλιμπάνῃ τὰ ἑαυτοῦ τέκνα, καὶ μὴ τεκνοτροφῇ, καὶ ὅσον ἐν ἑαυτῇ πρὸς θεοσεβείαν τὴν προσήκουσαν ἀγάγῃ, ἀλλὰ προφάσει τῆς ἀσκήσεως ἀμελοίῃ, ἀνάθεμα ἔστω.

^b Cod. Theod. lib. ix. tit. xxiv. de Raptu Virginum et Viduarum, leg. i. (Lugdun. 1665. vol. iii. p. 189.) Si quis nihil cum parentibus puellæ ante depactus, invitam eam rapuerit, vel volentem abduxerit, patrociniū ex ejus responsione

runs in these terms: "If any one, without first obtaining the consent of parents, steal a virgin against her will, or carry her off by her own consent, hoping that her consent will protect him; he shall have no benefit from such consent, as the ancient laws have determined; but the virgin herself shall be held guilty, as partaker in the crime. If any nurse be instrumental or accessory to the fact by her persuasions, which often defeat the parents' care, her detestable service shall be revenged by pouring molten lead into her mouth, that ministered to such wicked counsels. If the virgin be detected to have given her consent, she shall be punished with the same severity as the raptor himself: seeing she that is stolen away against her will, is not suffered to go unpunished; because she might have kept herself at home; or if she was taken by violence out of her father's house, she should have cried out for help to the neighbourhood, and used all means possible to defend herself. But on such we impose only a lighter punishment, denying them the right of succeeding to their father's inheritance. But the raptor himself, being clearly convicted, shall have no benefit of appeal. If parents, who are chiefly concerned to prosecute this crime, connive at it, they shall be banished. All who are partners or assistants to the raptor, shall be liable to the same punishment without distinction of sex. And if

sperans, nihil ei secundum jus vetus prosit puellæ responsio; sed ipsa puella potius societate criminis obligetur. Et quoniam parentum sæpe custodiæ nutricum fabulis et pravis suasionibus deluduntur, his primum, quarum detestabile ministerium fuisse arguetur, redemptique discursus, poena immineat, ut eis meatus oris et faucium, qui nefaria hortamenta protulerit, liquentis plumbi ingestione claudatur. Et si voluntatis adsensio detegitur in virgine, eadem qua raptor severitate plectatur: quum neque his *imm(p)unitas* præstanda sit, quæ rapiuntur invitæ; quum et domi se usque ad conjunctionis diem servare potuerint; et si fores raptoris frangerentur audacia, vicinorum opem clamoribus querere, seque omnibus tueri conatibus. Sed his poenam leviores imponimus, solamque eis parentum negari successionem præcipimus. Raptor autem, indubitato convictus, si appellare voluerit, minime audiatur. Si quis vero servus, raptus facinus dissimulatione præteritum, aut pactione transmissum, detulerit in publicum, Latinitate donetur: aut si civis Latinus sit, civis fiat Romanus. Parentibus, quorum maxime vindicta intererat, si patientiam præbuerint, deportatione plectendis. Participes etiam et ministros raptoris, citra discretionem sexus, eadem poena præcipimus subjugari. Et si quis inter hæc ministeria servilis conditionis fuerit deprehensus, citra sexus discretionem eum concremari jubemus.

any such be slaves, they shall be burnt alive." This law of Constantine's is confirmed by another law of his son Constans: only with this difference,¹ that whereas Constantine's law ordered the criminals to be burnt alive, or thrown to the wild beasts, as Gothofred interprets it; this of Constans so far moderated the punishment, as to let it be only a common death, that it might more duly be put in execution. Yet if any slaves were concerned in aiding the raptors in such attempts, they were still to be burnt alive, according to the tenor of the former law. By another law of Valentinian^k and Gratian, widows are not allowed to marry a second time without the consent of their parents, if they were under the age of twenty-five years, although they were *sui juris* and enjoyed the liberty of emancipation. And there are many other laws in both the codes,¹ to the same purpose. The ecclesiastical laws

¹ Cod. Theod. *ibid.* leg. ii. (p. 193.) *Quamvis legis prioris exstet auctoritas, qua inclutus pater noster contra raptorem atrocissime jusserat vindicari, tamen nos tantummodo capitale pœnam constituimus; videlicet, ne sub specie atrocioris judicii aliqua in ulciscendo crimine dilatio nasceretur. In audaciam vero servilem dispari supplicio, mensura legum impendenda est, ut perurendi subjiciantur ignibus, nisi a tanto facinore saltem pœnarum acerbitate revocentur.*

^k Cod. Theod. lib. iii. tit. vii. de Nuptiis, leg. i. *Viduae intra xxv. annum degentes, etiamsi emancipationis libertate gaudeant, tamen in secundas nuptias non sine patris sententia [consensu] convenient.* (vol. i. p. 276.)

¹ Cod. Theod. *ibid.* leg. iii. (Lugdun. 1665. vol. i. p. 279.) *Si donationum ante nuptias, vel dotis instrumenta, defuerint, pompa etiam, aliaque nuptiarum celebritas omittatur, nullus æstimet ob id deesse, recte alias inito matrimonio, firmitatem, vel ex eo natis liberis jura posse legitimorum auferri, si inter pares honestate personas, nulla lege impediende, fiat consortium, quod ipsorum consensu atque amicorum fide firmatur.*—Cod. Justin. lib. v. tit. iv. de Nuptiis, leg. i. (p. 148.) *Quum de nuptiis puellæ quæritur, nec inter tutorem et matrem et propinquos de eligendo futuro marito convenit; arbitrium præsidis provinciæ necessarium est.* Leg. ii. *Si nuptiis pater tuus consensit; nihil oberit tibi, quod instrumento ad matrimonium pertinenti non subscripsit.* Leg. vii. *Si post querelam de marito a filia [tua] ad te delatam, dissolutum est matrimonium, nec te consentiente ad eundem regressa est; minus legitima conjunctio est, cessante patris voluntate, in cujus est potestate: atque ideo non petente filia, petitionem dotis repetere non prohiberis.* Leg. xx. *In conjunctione filiarum in sacris positarum, patris expectetur arbitrium. Sed si sui juris puella sit, intra quintum et vicissimum annum constituta; ipsius quoque adsensus exploretur. Si patris auxilio destituta, matris et propinquorum, et ipsius quoque requiratur adultæ judicium. Si utroque orba parente, sub curatoris defensione constituta sit, etc.* Just. Instit. lib. i. tit. x. de Nuptiis. (p. 5.) *Si filii familiarum sint, consensum*

in this concur with the civil law. St. Austin^m says expressly, that mothers as well as fathers have this right in their children, to dispose of them in marriage, unless they be of that age, which gives them liberty to chuse for themselves. Tertullian says the same,ⁿ “that children cannot lawfully marry without the consent of their earthly parents.” St. Basil,^o in one of his canons, gives directions, “that they who stole virgins, should be treated as fornicators, that is, do four years’ penance; and when the virgins were restored to their guardians, it was at their discretion whether they would give them in marriage to the raptors or not.” In another canon^p he says, “If slaves marry without the consent of their masters, or children without the consent of their parents; it is not matrimony, but fornication, till they ratify it by their consent.” Again,^q “If virgins, who are under the power of their parents, marry without their consent, they are to be treated as harlots. If their parents are afterward reconciled to them, and give their consent, yet they shall do three years’ penance for their first transgression.” And again,^r “If a slave marry without the consent of her

habeant parentum, quorum in potestate sunt. Nam hoc fieri debere, et civilis et naturalis ratio suadet: in tantum, ut jussus parentis præcedere debeat.

^m Augustin. epist. ccxxxiii. ad Benenatum. (Bened. 1700. vol. ii. p. 668. D.) Matris voluntatem, in tradenda filia omnibus, ut arbitror, natura præponit: nisi eadem puella in ea jam ætate fuerit, ut jure licentior sibi eligat ipsa, quod velit.

ⁿ Tertull. ad Uxor. lib. ii. c. ix. (Paris. 1664. p. 172. A 1.) Nec in terris filii sine consensu patrum recte et jure nubunt.

^o Basil. can. xxii. (Labbé, vol. ii. p. 1736.) Εἰ δὲ σχολάζουσάν τις λάβῃ, ἀφαιρεῖσθαι μὲν δεῖ, καὶ τοῖς οἰκείοις ἀποκαθιστᾶν· ἐπιτρέπειν δὲ τῇ γνώμῃ τῶν οἰκείων, εἴτε γονεῖς εἴεν, εἴτε ἀδελφοί, εἴτε οἰτινεςοῦν προεστῶτες τῆς κόρης· καὶ μὲν ἔλονται αὐτῷ παραδοῦναι, ἵστασθαι τὸ συνοικίσαι· ἂν δὲ ἀνανέψωσι, μὴ βιάζεσθαι· τὸν μὲν τοι ἐκ διαφθορᾶς, εἴτε λαθραίας, εἴτε βιαιοτέρας, γυναικᾶ ἔχοντα, ἀνάγκη τὰ τῆς πορνείας ἐπιγνῶναι ἐπιτίμια· ἔστι δὲ ἐν τέσσαρσιν ἔτεσιν ὥρισμένη τοῖς πορνεύουσιν ἐπιτίμῃς.

^p Basil. can. xlii. (Labbé, vol. ii. p. 1744.) Οἱ ἄνευ τῶν κρατούντων γάμοι, πορνείαι εἰσιν· οὔτε οὖν πατέρος ζῶντος οὔτε δεσπότου, οἱ συνιόντες ἀνέθυνοι εἰσιν, ὥς ἂν ἐπινεύσωσιν οἱ κύριοι τὴν συνοίκησιν· τότε γὰρ λαμβάνει τὸ τοῦ γάμου βέβαιον.

^q Ibid. c. xxxviii. (Labbé, vol. ii. p. 1741.) Αἱ κόραι, αἱ παρὰ γνώμην τοῦ πατέρος ἀκολουθήσασαι, πορνεύουσι· διαλλαγόντων δὲ τῶν γονέων δοκεῖ θεραπείαν λαμβάνειν τὸ πρᾶγμα· οὐκ εὐθὺς δὲ εἰς τὴν κοινωνίαν ἀποκαθίστανται, ἀλλ’ ἐπιτιμηθήσονται τρία ἔτη. Vide sis etiam ap. Matthæum Monach. Respons. Matrim. in jure Gr. Rom. Leunclavii, p. 500, 501.

^r Basil. can. xl. (Labbé, vol. ii. p. 1741.) Ἡ παρὰ γνώμην τοῦ δεσπότου

master, she differs nothing from a harlot. For contracts made without the consent of those under whose power they are, have no validity, but are null: and,¹ therefore, though the master afterward give his consent, and make the marriage good, yet the first fault shall be punished as fornication.”

SECT. III.—*Nor slaves without the consent of their masters.*

It appears from two of these last mentioned canons, that slaves were as much under the power of their masters, as children were under their parents'. And therefore it was equally a crime for a slave to marry without the consent of the master, as for a child to do it without consent of parents. And for the same reason, a slave was not allowed either to enter himself into a monastery, or take orders, without the consent of his master, as has been shewed² in other places; because this was to deprive his master of his legal right of service, which by the original state and condition of slaves was his due: and the Church would not be accessory to such frauds and injustice, but rather discouraged them by prohibitions and suitable penalties laid upon them.

SECT. IV.—*The punishment of Treason and disrespect to Princes.*

Another sort of parents, whose honour was intended to be secured by this command, were the political parents, ‘patres patriæ,’ kings and emperors, whose authority and majesty was reputed sacred and supreme next under God. And therefore all disloyalty and disrespect shewed to them, either in word or action, was always severely chastised by the laws of the Church.

I need not here suggest what civil penalties were inflicted by the laws of the state upon transgressors in this kind, because the ancient civil codes are full of them under several titles, which the learned reader may consult at his own leisure: such as speaking evil³ of dignities; counterfeiting their⁴ letters;

ἀνδρὶ ταυτὴν ἐκδοῦσα, ἐπόρνευσεν. . . αἱ γὰρ συνθῆκαι τῶν ὑπεξουσιῶν οὐδὲν ἔχουσι βέβαιον.

¹ [Hæc apud Basilium non exstant: Grischov.]

² Lib. iv. c. iv. § ii. Lib. vii. c. iii. § ii. vol. ii. p. 273.

³ Cod. Theod. lib. ix. tit. iv. (Lugdun. 1665. vol. iii. p. 42.) Si quis imperatori maledixerit. leg. i. Si quis, modestiæ nescius et pudoris ignarus, improbo petulantique maledicto nomina nostra crediderit lacessenda, ac temu-

corrupting or counterfeiting their coin ;^u consulting augurs or astrologers about the term^x of their life ; or using any curious arts to know who should be their successor ; raising of tumults^y to the disturbance of the public discipline ; conspiring against their lives^z or government ; bearing arms^a without

lentia turbulentus obtrectator temporum fuerit, eum poenæ nolumus subjugari, neque durum aliquid nec asperum sustinere : quoniam, si id ex levitate processerit, contemnendum est : si ex insania, miseratione dignissimum : si ab injuria, remittendum. Unde integris omnibus ad nostram Scientiam referatur, ut ex personis hominum dicta pensemus, et utrum prætermitti an exquiri debeat, censeamus.

^t Cod. Theod. lib. ix. tit. xix. ad legem Corneliam de falso, leg. iii. (Lugdun. 1665. vol. iii. p. 161.) *Serenitas nostra prospexit, inde cœlestium (i. e. imperatoriarum) litterarum cœpisse imitationem, quod his apicibus tuæ gravitatis officium consultationes, relationesque complectitur, quibus scrinia nostræ Perennitatis utuntur : quamobrem istius sanctionis auctoritate præcipimus, ut posthac, magistra falsorum, consuetudo tollatur, et communibus litteris universa mandentur, quæ vel de provincia fuerint scribenda, vel a iudice ; ut nemo stili hujus exemplum aut privatum sumat, aut publice.*

^u Ibid. tit. xxi. de Falsa Moneta, tit. xxii. leg. i. (Lugdun. 1665. vol. iii. p. 169.) *Quicumque adulterina fecerit nomismata, poenam pro discretionē sexus et conditionis suæ diversitate sustineat : hoc est, ut si decurio, vel decurionis sit filius, exterminatus genitali solo, ad quaecumque in longinquo positam civitatem sub perpetui exilii conditione mittatur, ac super facultatibus ejus ad nostram Scientiam referatur : si plebeius, ut rebus amissis perpetuæ damnationi dedatur : si servilis conditionis, ultimo supplicio subjugetur. Vide et leg. seqq. It. tit. xxii. Si quis solidi circulum exteriore incidit, vel adulteratum in vendendo subjecerit. Tit. xxiii. Si quis pecunias conflaverit, etc.*

^x Cod. Theod. lib. ix. tit. xvi. (Lugdun. 1665. vol. iii. p. 127.) de Malefic. et Mathemat. leg. viii. *Cesset mathematicorum tractatus : nam si qui publice aut privatim, in die noctuque, deprehensus fuerit in cohibito errore versari, capitali sententia feriat uterque.*

^y Cod. Theod. lib. ix. tit. xxxiii. (Lugdun. 1665. vol. iii. p. 236.) de his, qui plebem audent contra publicam colligere disciplinam. *Si quis, contra evidentissimam jussionem, suscipere plebem, et adversus publicam disciplinam defendere, fortasse tentaverit, multam gravissimam sustinebit.*

^z Cod. Theod. lib. ix. tit. v. (Lugdun. 1665. vol. iii. p. 49.) ad legem Juliam majestatis. *Si quis alicui majestatis crimen intenderit, quum in hujusmodi re convictus minime quisquam, privilegio dignitatis alicujus, astrictiore inquisitione defendatur, sciat se quoque tormentis esse subdendum, (si aliis manifestis indicis accusationem suam non potuerit comprobare) cum eo, qui hujus esse temeritatis deprehenditur. Illum quoque tormentis subdi oportet, cujus consilio ac instinctu ad accusationem accessisse videbitur, ut ab omnibus commissi consilis statuta vindicta possit reportari, etc. Tit. vi. Ne præter crimen majestatis servus dominum, vel patronum libertus seu familiaris accuset. (p. 51.) Ibid. tit. xiv. ad legem Corneliam de sicariis. (p. 84.) Tit. xl. de Pœnis, leg.*

their authority; and the like crimes, which come under the general names of sedition, treason, conspiracy, and rebellion, which were always excepted in those general indulgences^b that the emperors were wont to grant at Easter to other criminals. I need not say farther, that the contempt of the imperial laws was usually reputed a sort of sacrilege^c by the laws themselves, and punished under that title. That which I am chiefly concerned to remark here, is the ecclesiastical punishment of disloyalty and treason, and all scandalous contempt of civil government; against which sort of crimes, whether in word or deed, the ancients shewed great resentment. For the first three hundred years they gloried greatly over the heathens in this; that though the emperors were heathens, and some of them furious persecutors of the Christians, yet there were never any seditious or disloyal persons to be found among the persecuted Christians. “You defame us, (says Tertullian,)”^d with treason

xv. xvi. xvii. Lib. xv. tit. xiv. de infirmandis his, quæ sub tyrannis gesta sunt.

^a Cod. Theod. lib. xv. tit. xv. (Lugdun. 1665. vol. v. p. 419.) de armorum usu interdicto. Nulli prorsus, nobis insciis atque inconsultis, quorumlibet armorum movendorum copia tribuatur.

^b Cod. Theod. lib. ix. tit. xxxviii. (Lugdun. 1665. vol. iii. p. 266.) de Indulgentiis Criminum. tot.

^c Cod. Theodos. lib. vi. tit. v. leg. ii. (Lugdun. 1665. vol. ii. p. 71.) Sit plane sacrilegii reus, qui divina præcepta neglexerit. It. tit. xxiv. de Domesticis, leg. iv. (p. 135.) Poena sacrilegii similis erit, si his honorificentia non deferatur, qui contingere nostram purpuram digni sunt æstimati. Tit. xxxv. de privilegiis militum palatinorum, leg. xiii. (p. 244.) Omnes, qui in palatio militando diversis actibus paruerunt, secundum legem domini Germani nostri, in tantum ejus dignitatis, cujus meruerint missionem, obtinere norint insignia, ut his omnibus præferantur in ordine atque consessu, qui posteriore tempore regendas provincias dignitatesque susceperint Palatinas. Hoc autem generale decretum si quisquam temeraria usurpatione violare tentaverit, sacrilegii reus legibus censeatur.

^d Tertull. ad Scapul. c. ii. (Paris. 1664. p. 69. B 9.) Circa majestatem imperatoris infamamur, tamen numquam Albiniani, nec Nigriani, vel Cassiani inveniri potuerunt Christiani: sed iidem ipsi, qui per genios eorum in pridie usque juraverant, qui pro salute eorum hostias et fecerant et voverant, qui Christianos sæpe damnaverant, hostes eorum sunt reperti. Christianus nullius est hostis, nedum imperatoris: quem sciens a Deo suo constitui, necesse est ut et ipsum diligat, et revereatur, et honoret, et salvum velit, cum toto Romano imperio, quousque sæculum stabit: tam diu enim stabit. Colimus ergo et imperatorem sic, quomodo et nobis licet, et ipsi expedit, ut hominem a Deo,

against the emperor, and yet never could any Albinians, Nigrrians, or Cassians," [persons that had taken arms against the emperors] "be found among the Christians. Such as those, are they that swear by the emperor's genii, that have offered sacrifice for their safety, that have often condemned Christians; these are the men that are found enemies to the emperors. A Christian is no man's enemy, much less the emperor's; knowing him to be the ordinance of God, he cannot but love, revere, and honour him, and desire that he and the whole Roman empire may be in safety to the end of the world. We worship the emperor as much as is either lawful or expedient, as one that is next to God; we sacrifice for his safety, but it is only to his and our God; and in such manner as he has commanded, only by holy prayer. For the great God needs no blood or sweet perfumes: these are the banquets and repast of devils, whom we not only reject, but expel at every turn." For this reason, during this interval, there was no need of ecclesiastical punishments to correct traitors against the civil government, because there were no such among Christians. But when the whole world was become Christian, there was occasion for such laws to be made against sedition and treason. And then we find several canons to prevent or correct it. The fourth Council of Carthage^e forbids the ordination of any seditious persons, as those that would be a scandal to the profession. And this is repeated in the same words by the Council^f of Agde. The fourth Council of Toledo^g orders all clergymen that took arms in any sedition, to be degraded from their order, and to be confined to a

secundum; et quicquid est, a Deo consequutum [est], et solo Deo minorem. . . . Sacrificamus pro salute imperatoris, sed Deo nostro et ipsius, sed quomodo præcepit Deus, pura prece. Non enim eget Deus, conditor universitatis, odoris aut sanguinis alienius. Hæc enim dæmoniorum pabula sunt. Dæmones autem non tantum respuimus, verum et revincimus, et quotidie traducimus, et de hominibus expellimus.

^e Concil. Carth. IV. c. lxvii. Seditiosarios numquam ordinandos clericos, sicut nec usurarios, nec injuriarum suarum ultores. (Labbé, vol. ii. p. 1205.)

^f Concil. Agath. c. lxix. (Labbé, vol. iv. p. 1394.)

^g Concil. Tolet. IV. c. xlv. (Labbé, vol. v. p. 1717.) Clerici, qui in quacunque seditione [factione] arma volentes sumserint, aut sumserunt, reperti, amisso ordinis sui gradu in monasterium [perenniter] penitentiae contradantur.

monastery, to do penance there all their lives. The fifth Council of Toledo^b mentions an oath of allegiance, which in a former general council of all Spain was appointed to be taken by all the subjects to the king and his heirs : and a most severe anathema is pronounced against all that should violate any part of it. Particularly they excommunicate and anathematize all that should pretend to usurp the throne^c without the consent of the nobility and the whole Gothic nation ; all that should make any curious^k and unlawful enquiries about the fatal period of the life of the prince ; all that should speak evil of him : for it is written, "Thou shalt not speak evil of the ruler of thy people." If railers shall not inherit^l the king-

^b Concil. Tolet. V. c. ii. (Labbé, vol. v. p. 1736.) Ne succedentes præcedentibus, ac deinde sequentes inuideant anterioribus, et ut cuncta quiete et pacate permaneant, hæc nostri concilii communiter considerata defertur sententia, ut servetis quæcumque in universali et magna synodo provisa conscriptaque circa principum salutem et utilitatem sunt. . . . Quocirca ne hæc promissa [provisa] timerentur, et ut cupiditas radix omnium malorum auferatur, contestamur omnes præsentés et absentes, vel etiam futuris temporibus subsequentes, coram Deo et angelis ejus. Quod si quisquam nostræ contestationi temerator exstiterit, et quæcumque argumentatione odiose eos molestare, aut in aliquot fuerit conatus lædere, sit anathema in Christianorum omnium cœtu, atque superno condemnatur judicio ; sit exprobabilis omnibus catholicis, et abominabilis sanctis angelis in ministerio Dei constitutis ; sit in hoc sæculo perditus, et in futuro damnatus, qui tam rectæ provisioni noluit præbere consensum.

ⁱ Ibid. can. iii. (Labbé, vol. v. p. 1736.) Quoniam inconsideratæ quorundam mentes, et se minime capientes, quos nec origo ornat, nec virtus decorat, passim putant licenterque ad regiæ majestatis pervenire fastigia ; hujus rei causa nostra omnium, cum invocatione divina, profertur sententia, ut qui talia meditatus fuerit, quem nec electio omnium probat, nec Gothicæ gentis nobilitas ad hunc honoris apicem trahit, sit a consortio catholicorum privatus, et divino anathemate condemnatus.

^k Ibid. can. iv. (Labbé, vol. v. p. 1739.) Ergo, quia et religioni inimicum, et hominibus constat esse superstitiosum [perniciosum], futura illicite cogitare, et casus principum exquirere, ac sibi in posterum providere ; quum scriptum sit, 'Non est vestrum nosse tempora, vel momenta, quæ Pater posuit in sua potestate,' hoc decreto censemus, ut quisquis inventus fuerit talia perquisisse, et, vivente principe, in alium attendisse pro futura regni spe, aut alios in se propter id attraxisse, a conventu catholicorum excommunicationis sententia repellatur.

^l Ibid. can. v. (Labbé, vol. v. p. 1739.) Sed et hoc pro pestilentiosis hominum moribus salubri ordinatione censemus, ne quis in principem maledicta congerat. Scriptum est enim a legislatore, 'Principem populi tui non maledices.' Quod si quis fecerit, excommunicatione ecclesiastica plectatur. Nam si 'maledici regnum Dei non possidebunt,' quanto magis talis ab ecclesia necessario pellitur, qui divinæ violator sententiæ invenitur.

dom of God, how much rather ought such contemners of the divine law to be cast out of the Church? Finally, they made an order,^m that “in every council held in Spain, this decree concerning allegiance due to princes should be read, when all other things were done, to the end that no one might be unmindful of his duty and obligations to the sovereign power.” And accordingly, we find the same decree repeated and confirmed in several otherⁿ councils of that nation.

SECT. V.—*Of Contemners of the laws of the Church.*

The last sort of parents to whom honour and obedience is due, are the spiritual parents, or governors of the Church; the contempt of whose laws and rules made for the good government, order, and edification of the Church, was always thought a matter worthy of ecclesiastical censure. There are innumerable instances of this in the acts and canons of the ancient councils: I shall content myself with relating two or three, which concern matters purely of ecclesiastical observation. The Council of Antioch^o excommunicates all those who pertinaciously oppose the rule made about Easter in the Council of Nice. The first Council of Carthage^p more generally censures

^m Ibid. can. vii. (Labbé, vol. v. p. 1739.) Propter malarum mentium facilitatem et memorie oblivionem hoc sacratissima statuit synodus, ut in omni concilio episcoporum Hispaniæ, universalis concilii decretum, quod propter principum nostrorum est salutem constitutum, peractis omnibus in synodo, publica voce debeat pronuntiari; quatenus sæpe supplicatum auribus, vel adsiduitate iniquorum mens territa corrigatur, quæ ad prævaricandum et oblivione et facilitate, pro[per]ducitur.

ⁿ Concil. Tolet. VI. c. xvii. xviii. tot. Tolet. XII. c. i. Tolet. X. c. ii.

^o Concil. Antioch. c. i. (Labbé, vol. ii. p. 561.) Πάντας τοὺς τολμῶντας παραλύειν τὸν ὅρον τῆς ἁγίας καὶ μεγάλης συνόδου, τῆς ἐν Νικαίᾳ συγκροτηθείσης ἐπὶ παρουσίᾳ τῆς εὐσεβείας τοῦ θεοφιλεστάτου βασιλέως Κωνσταντίνου, περὶ τῆς ἁγίας ἑορτῆς τοῦ σωτηριώδους πάσχα, ἀκοινωνήτους καὶ ἀποβλήτους εἶναι τῆς ἐκκλησίας, εἰ ἐπιμένουσιν φιλονεικότερον ἐνιστάμενοι πρὸς τὰ καλῶς δεδογμένα· καὶ ταῦτα εἰρήσθω περὶ τῶν λαϊκῶν· εἰ δέ τις τῶν προεστώτων τῆς ἐκκλησίας ἐπίσκοπος, ἢ πρεσβύτερος, ἢ διάκονος, μετὰ τὸν ὅρον τοῦτον τολμήσειεν ἐπὶ διαστροφῇ τῶν λαῶν, καὶ ταραχῇ τῶν ἐκκλησιῶν, ἰδιάζειν καὶ μετὰ τῶν Ἰουδαίων ἐπιτελεῖν τὸ πάσχα· τοῦτον ἡ ἁγία σύνοδος ἐντεῦθεν ἤδη ἀλλότριον ἔκρινεν τῆς ἐκκλησίας· ὥς οὐ μόνον ἑαυτῇ ἁμαρτίας, ἀλλὰ πολλοῖς διαφθορᾷς καὶ διαστροφῇς γινόμενον αἰτιον· καὶ οὐ μόνον τοὺς τοιοῦτους καθαιρεῖ τῆς λειτουργίας, ἀλλὰ καὶ τοὺς τολμῶντας τοῦτοις κοινωνεῖν μετὰ τὴν καθάρεισιν. τοὺς δὲ καθαιρεθέντας ἀποστερεῖσθαι καὶ τῆς ἐξωθεν τιμῆς, ἥς ὁ ἅγιος κανὼν καὶ τὸ τοῦ Θεοῦ κερατεῖον μετέληφεν.

^p Concil. Carth. I. c. xiv. (Labbé, vol. ii. p. 718.) Si quis statuta super-

all opposers of ecclesiastical orders: "If any one viciously transgress or condemn the decrees of the Church; if he be a layman, let him be excommunicated; if a clergyman, let him be deprived of the honour of his order." The Council of Epone in like manner^a concludes her decrees with this sanction: "If any one disorderly transgress the rules and observations, which the holy bishops have made in this present council, and confirmed with their subscriptions, let him know that he shall be liable to the judgment both of God and the Church." The fourth Council of Toledo^r orders such as reject the use of the hymns and prayers appointed by the Church, to be punished with excommunication. And king Reccaredus in the third Council of Toledo,^s besides excommunication, orders a civil penalty of confiscation and banishment to be inflicted on such as proudly contemned the rules then made in council, and refused to yield obedience to them. And laws of the same import occur everywhere both in the civil and ecclesiastical codes, so that I need not trouble the learned reader with any more of them, having suggested these few as a specimen of that obedience which was required to be paid to the laws and authority of the Church under the penalty of excommunication.

gressus corruerit, vel pro nihilo habenda putaverit; si laicus est, communione, si clericus est, honore privetur.

^a Concil. Epæonens. c. xl. (Labbé, vol. iv. p. 1581.) Si quis sanctorum antistitum, qui statuta præsentia subscriptionibus propriis firmaverunt, relicta integritate, observationes excesserit; reum se divinitatis pariter et fraternitatis iudicio futurum esse cognoscat.

^r Concil. Tolet. IV. c. xii. (Labbé, vol. v. p. 1710.) Sicut orationes, ita et hymnos in laudem Dei compositos, nullus vestrum ulterius improbet, sed parimodo Gallia [in Galicia] Hispaniaque celebret; excommunicatione plectendi, qui hymnos rejicere fuerint ausi.

^s Edict. Reccaredi ad calcem Concil. III. Toletani (Labbé, v. concil. p. 1015.) Si quis clericus aut laicus harum sanctionum obediens [observator] esse noluerit, superba fronte majorum statutis repugnans: si episcopus, presbyter, diaconus, aut clericus fuerit, ab omni concilio excommunicationi subjaceat: si vero laicus fuerit, et honestioris loci persona est; medietatem facultatum suarum amittat, fisci iuribus profuturam: si vero inferioris loci persona est, amissione rerum suarum mulctatus in exilium [deputetur] deportetur.

CHAPTER X.

OF GREAT TRANSGRESSIONS AGAINST THE SIXTH COMMANDMENT, MURDER, MANSLAUGHTER, PARRICIDE, SELF-MURDER, DISMEMBERING THE BODY, CAUSING ABORTION, &c.

SECT. I.—*Murder ever reckoned a capital and unpardonable Crime by the laws of the State.*

WE are now come to the great sin of murder, which the civil laws always reckon among those called ‘atrocia delicta,’ and ‘atrocissima crimina,’ those heinous and capital crimes, for which they neither allowed pardon nor appeal after clear conviction. This crime was always excepted in those indulgences^a or general pardons which the emperors granted to criminals

^a Cod. Theodos. lib. ix. tit. xxxviii. de Indulgentiis Criminum, leg. i. iii. iv. Vide sup. cap. v. § v. sub litt. (d) p. 60. Leg. vi. (Lugdun. 1665. vol. iii. p. 275.) Paschalis lætitiæ dies ne illa quidem tenere sinit ingenia, quæ flagitia fecerunt: pateat insuetis horridus carcer aliquando luminibus. Alienum autem censemus ab indulgentia, qui nefari-orum-am criminum conscientiam, 1. in majestatem superbe animadvertit-erit: 2. qui parricidali furore raptus sanguine proprio manum tinxit: 3. qui cujusque præterea hominis cæde maculatus est: 4. qui genialis tori ac lectuli fuit invasor alieni: 5. qui verecundiæ virginalis raptor exstitit: 6. qui venerandum cognati sanguinis vinculum profano cæcus violavit incestu: 7. vel qui noxiis quæsitæ graminibus et diris immurmura secretis, mentis et corporis venena composuit: 8. aut qui, sacri oris imitator, et divinorum vultuum adpetitor, venerabiles formas sacrilegio eruditus impressit, etc. Leg. vii. p. 276. Religio anniversariæ obsecrationis hortatur, ut omnes omnino periculo carceris metuque pœnarum eximi juberemus, qui levioere crimine rei sunt postulati. Unde apparet, eos excipi quos atrox cupiditas in scelera compulsi sæviora: in quibus est primum crimen, 1. et maximum, majestatis, 2. deinde homicidii, 3. veneficii, ac 4. maleficiorum, 5. stupri, atque 6. adulterii, parique immanitate sacrilegii, 7. sepulchrique violatio, 8. raptus, 9. monetæque adulterata figuratio. Leg. viii. Ubi primum dies paschalis extiterit, nullum teneat carcer inclusum, omnium vincula solvantur. Sed ab his secernimus eos, quibus contaminari potius gaudia lætitiæque communem, si dimittantur, advertimus. Quis enim 1. sacrilego diebus sanctis indulgeat? quis 2. adultero, 3. vel incesti reo tempore castitatis ignoscat? quis non 4. raptorem in summa quiete et gaudio communi persequatur instantius? 5. Nullam accipiat requiem vinculo- rum, qui quiescere sepultos quadam sceleris immanitate non sinit: patiatur tormenta 6. veneficus, 7. maleficus, 8. adulteratorque monetæ: 9. homicida, quod fecit, semper expectet: 10. reus etiam majestatis, de domino, adversum quem talia molitus est, veniam sperare non debet.

upon the account of their children's birth-days, or the annual returns of the Easter festival, or any the like occasion. And whereas many other criminals were allowed the benefit of appealing, this was wholly denied^b to murderers; nor might any such criminals anciently pretend to shelter themselves by taking sanctuary in the Church; which is expressly provided by a law of Justinian,^c determining who may or may not take refuge in the Church; where among those to whom this privilege is denied, murderers, adulterers, and ravishers of virgins are particularly recounted.

SECT. II.—*How punished by the laws of the Church.*

By the most ancient laws of some churches, murderers seem to have been subjected to a perpetual penance all their lives, and by some denied communion even at the hour of death. Tertullian^d says plainly “that neither idolaters nor murderers were admitted to the peace of the Church.” And that he means not here, by the Church, his own sect of the Montanists, but the catholic Churches, is concluded by learned men^e from hence, that he is arguing with the Catholics

^b Cod. Theod. lib. xi. tit. xxxvi. (Lugdun. 1665. vol. iv. p. 292.) Quorum appellationes non recipiantur, leg. i. Quum homicidam vel maleficum, vel veneficum (quæ atrocissima crimina sunt) confessio propria . . detexerit, provocationes suscipi non oportet. Leg. vii. Observare curabis, ne quis homicidarum, veneficorum, maleficorum, adulterorum, itemque raptorum, argumento convictus, teste superatus, voce etiam propria, scelusque confessus, audiatur appellans.

^c Justin. Novell. xvii. c. vii. Οὐτε δὲ ἀνδροφόνους, οὔτε μοιχοῖς, οὔτε παρθένων ἀρπαξίν ἀμαρτάνουσι τὴν ἐκ τῶν ὄρων φυλάξεις ἀσφαλειαν ἀλλὰ καὶ κεῖθεν ἐξελεύσεις, καὶ τιμωρίαν αὐτοῖς ἐπάξεις. οὐ γὰρ τῶν τὰ τοιαῦτα ἀμαρτανόντων φείδεσθαι προσήκει, ἀλλὰ τῶν περιόντων, ἵνα μὴ τοιαῦτα ὑπὸ τῶν τολμηροτέρων πάσχοιεν. ἄλλως τε ἢ ἐκ τῶν ἱερῶν ἀσφάλεια οὐ τοῖς ἀδικοῦσιν, ἀλλὰ τοῖς ἀδικουμένοις δέδοται παρὰ τοῦ νόμου· καὶ οὐκ ἂν εἴη δυνατόν ἐκάτερον ἰσχυρίζεσθαι τῇ παρὰ τῶν ἀσύλων τόπων ἀσφαλείᾳ, καὶ τὸν ἀδικοῦντα καὶ τὸν ἀδικοῦμενον. (p. 36.)

^d Tertull. de Pudicit. c. xii. Neque idololatriæ, neque sanguini pax ab ecclesiis redditur. (Paris. 1664. p. 564. B 4.)

^e Vide Albaspin. observat. lib. ii. c. xv. p. 123. (p. 186. ed. Helmst. 1672.) Verba ista libri de Pudicitia, ‘Hinc est, quod neque idololatriæ,’ etc. liquido demonstrant solitos fuisse orthodoxos homicidas non communicare absolutionem, sed solam poenitentiam, eosque æterno quasi exilio condemnatos ab ecclesia abigere. Quid enim roboris, virium, ac ponderis argumenta, quæ ab eo suggeruntur, in orthodoxos habuissent, nisi opinionis eorum et disciplinæ fuisset, homicidas perpetuæ poenitentiae, interclusa omni spe majoris gratiæ,

that they ought to deny adulterers the peace of the Church, by the same reason and rule that they denied it to idolaters and murderers. Which implies at least that some Catholic Churches in Africk refused to admit murderers to communion. Which is the more probable from what Cyprian says of some of his predecessors, "That they were used to deny fornicators and adulterers^f the peace of the Church, though they did not upon this break communion with others that admitted them." Now murder being as great a crime as adultery, it is likely they rejected murderers as well as adulterers utterly from their communion. In the following ages, the term of their penance was a little moderated. For the Council of Ancyra^g obliges them only to do penance all their lives, and allows them to be received at the hour of death. Other canons reduce their penance to a certain term of years. St. Basil^h appoints the wilful murderer twenty years' penance; four years, as a mourner; five years, as an hearer; seven years, as a pros-trator; four years, as a co-stander only, to hear the prayers without receiving the communion.

censura inurere ! Id veri speciem non habet ; nec aliter de Tertulliano cuiquam sentiendum erit, qui præsertim ejus viri ingenium acre et tetricum cognoverit, qui quidem crimini non vertisset orthodoxis, quod homicidas perpetuo ab ecclesia relegarent, adulteris autem ad misericordiam sperandam quasi signum preferrent ; nisi utrumque tum temporis verum et usitatum fuisset. Quare quum ejusmodi argumenta contra orthodoxos excogitet et proferat, omni adseveratione confirmare possumus, eorum fuisse hanc et docendi et vivendi rationem, etc.

^f Cyprian. epist. lii. al. lv. ad Antonian. (p. 110. Oxon. 1682.) (p. 247, edit. Fell. Amstelod.) Apud antecessores nostros, quidam de episcopis istic in provincia nostra dandam pacem mœchis non putaverunt, et in totum poenitentiae locum contra adulteria clausurunt; non tamen a coëpiscoporum suorum collegio recesserunt, aut catholice ecclesiæ unitatem vel duritiæ vel censuræ suæ obstinatione ruperunt ; ut, quia apud alios adulteris pax dabatur, qui non dabat, de ecclesia separaretur.

^g Concil. Ancyra. c. xxii. (Labbé, vol. i. p. 1464.) *Περὶ ἐκουσίῳν φόνων, ὑποπιπτεύσαν μὲν, τοῦ δὲ τελείου ἐν τῷ τέλει τοῦ βίου καταξιούσθωσαν.* — It. Concil. Epæonens. c. xxxi. (Labbé, vol. iv. p. 1580.) De poenitentia homicidarum, qui sæculi leges evaserint, hoc summa reverentia de eis inter nos placuit observari, quod Ancyritani canones decreverunt.

^h Basil. can. lvi. (Labbé, vol. ii. p. 1748.) *Ὁ ἐκουσίως φονεύσας, καὶ μετὰ τοῦτο μεταμεληθεὶς, εἰκοσιν ἔτη ἀκοινωνήτος ἔσται τοῦ ἀγιάσματος· τὰ δὲ ἑικοσιν ἔτη οὕτως οἰκονομηθήσεται ἐπ' αὐτῷ· ἐν δ'. ἔτεσι προσκλαίειν ὀφείλει ἕξω τῆς θύρας ἐστὼς τοῦ εὐκτηρίου οἴκου, καὶ τῶν εἰσιόντων πιστῶν δεόμενος,*

SECT. III.—*The heinousness of Murder when joined with other crimes, such as Idolatry, Adultery, and magical practices.*

Yet, in some cases, the discipline continued still to be more severe against murder, when it happened to be complicated with other great crimes, such as idolatry, adultery, and the practice of magical and diabolical arts against the lives of men: because these were great aggravations to inflame the account of murder. Thus in the Council of Eliberis,¹ “If any Christian took upon him the office of a heathen Flamen, and therein sacrificed and committed adultery and murder,” (which might be done either directly, by a personal commission of those crimes; or indirectly by exhibiting the games and shows, wherein adultery and murder were committed by their authority and concurrence;) “in such a case he was to be denied communion even at the hour of death, because he had doubled and tripled his crime,” as the canon words it. So again, if any one used pharmacy or magical art^k to kill another, he was not to be received into communion even at the hour of death; because here was a conjunction of idolatry with murder. In like manner, another canon^l of the same council orders, “That if a woman conceive by adultery in the absence of her husband, and after that murder her child, she shall be rejected to the very last, because she has doubled her crime.” But the Council of Ancyra is a little more favourable in the case of simple fornication joined with murder. For it

εὐχὴν ὑπὲρ αὐτοῦ ποιῆσθαι, ἐξαγορεύων τὴν ἰδίαν παρανομίαν· μετὰ δὲ δ'. ἔτη εἰς τοὺς ἀκρωμένους δεχθήσεται, καὶ ἐν ε'. ἔτεσι μετ' αὐτῶν ἐξελεύσεται· ἐν δὲ ζ'. ἔτεσι μετὰ τῶν ἐν ὑποπτῶσει προσευχόμενος ἐξελεύσεται· ἐν δ'. συστήσεται μόνον τοῖς πιστοῖς, προσφορὰς δὲ οὐ μεταλήψεται· πληρωθέντων δὲ τούτων, μεθίξει τῶν ἀγιασμάτων.

¹ Concil. Illiber. c. ii. (Labbé, vol. i. p. 969.) Flamines, qui post fidem lavacri et regenerationis sacrificaverunt; eo quod geminaverint scelera, accedente homicidio, vel triplicaverint facinus, placuit eos nec in fine accipere communionem.

^k Concil. Illiber. c. vi. (Labbé, vol. i. p. 971.) Si quis maleficio interficiat alterum, eo quod sine idololatria perficere scelus non potuit, nec in fine impertiendam esse illi communionem.

^l Ibid. c. lxiii. (Labbé, vol. i. p. 977.) Si qua mulier per adulterium, absente marito, conceperit, idque post facinus occiderit; placuit neque in fine dandam esse communionem, eo quod geminaverit scelus.

is there observed,^m "That if a woman committed fornication, and murdered her infant, or caused abortion, she should only do ten years' penance, though by former canons she was obliged to do penance all her life." The Council of Leridaⁿ appoints seven years penance for common murder; but if it be done by sorcery, then it was penance for the whole life.

SECT. IV.—*Causing of Abortion condemned and punished as Murder.*

And here we may observe, that causing of abortion was esteemed one species of murder, and accordingly punished as such, when wilfully procured. So it is determined not only in the forementioned canon of Ancyra, but in the canons of St. Basil.^o "Let her that procures abortion, undergo ten years' penance, whether the embryo be perfectly formed or not." So again, "They are murderers who take medicines to procure abortion." And so the Council of Trullo:^p "They who give medicines to cause abortion, and they who take pernicious physic to destroy the embryo in the womb, are to undergo the penance of murderers." The Council of Lerida puts those who destroy the conception in the womb, by certain potions,^q

^m Concil. Ancy. c. xxi. (Labbé, vol. i. p. 1464.) Περὶ τῶν γυναικῶν τῶν ἐκπορνεουσῶν καὶ ἀναιρουσῶν τὰ γεννώμενα, καὶ σπουδαζουσῶν φθόρια ποιεῖν, ὃ μὲν πρότερος ὅρος μέχρις ἐξόδου ἐκώλυσεν· καὶ τούτῃ συντίθενται· φιλανθρωπότερον δὲ τι εὐρόντες, ὥρισamen δεκαετὴ χρόνον κατὰ τοὺς βαθμοὺς τοὺς ὥρισμένους.

ⁿ Concil. Ilerd. c. ii. (Labbé, vol. ii. p. 1720.) Hi, qui male conceptos ex adulterio foetus, vel editos necare studuerint, vel in uteris matrum potionibus aliquibus colliserint, in utroque sexu adulteris, post septem annorum curricula, communio tribuatur: ita tamen, ut omni tempore vitæ suæ, fletibus et humilitati insistant. . . . Ipsi veneficis in exitu tantum, si facinora sua omni tempore vitæ suæ defleverint, communio tribuatur.

^o Basil. can. ii. Φθείρασα κατ' ἐπιτήδευσιν, φόνου δίκην ὑπέχει· ἀκριβολογία δὲ ἐκ μεμορφωμένου καὶ ἀνεξεκονίστου παρ' ἡμῖν οὐκ ἔστιν· ἐνταῦθα γὰρ ἐκδικεῖται οὐ μόνον τὸ γεννηθισόμενον, ἀλλὰ καὶ αὐτὴ ἡ ἐαυτῇ ἐπιβουλεύσασα· πρόσσει δὲ τούτῃ καὶ ἡ φθορὰ τοῦ ἐμβρύου, ἕτερος φόνος, κατὰ γε τὴν ἐπινοίαν τῶν ταῦτα τολμώντων. (Labbé, ii. 1720.) Can. viii. Καὶ αἱ τοίνυν τὰ ἀμβλωθρίδια διδοῦσαι φάρμακα, φονεύτραι εἰσι καὶ αὗται, καὶ αἱ δεχόμεναι τὰ ἐμβρυοκτόνα δηλητήρια. (p. 1725. B 10.)

^p Concil. Trull. c. xci. (vi. 1182.) Τὰς τὰ ἀμβλωθρίδια διδοῦσας φάρμακα, καὶ τὰς δεχομένας τὰ ἐμβρυοκτόνα δηλητήρια, τῷ τοῦ φονέως ἐπιτιμῷ καθυποβάλλομεν.

^q Concil. Ilerdens. c. ii. See preceding note (n).

into the same class with those that kill infants after they are born ; and appoints a course of seven years' penance, for both sorts, as joining murder to adultery. The private writers among the ancients with one consent declare this to be murder. "In the prohibition of murder," says Tertullian,^r "we are forbidden to destroy the conception in the womb, whilst the blood is in its first formation of a human body. To hinder that which might be born, is but an anticipation or hastening of murder : and it is all one, whether a man destroy that life which is already born, or disturb that which is preparing to be born. He is a man who is in a disposition to be a man ; and all fruit is now in its seed or principle of existence." This he says in answer to the heathen objection, who charged the Christians with feasting upon the blood of an infant in their sacred mysteries. Minutius^s inverts the charge upon the heathen, telling them, "It was their own practice by medicated potions to destroy man, that would be, in his first original ; and for mothers to commit parricide before they brought forth." "But as for Christians," says Athenagoras, writing in their behalf,^t "how should they be guilty of murdering men who declare that mothers who use medicines to cause abortion, are murderers, and must give account of their wickedness unto God?" St. Jerom^u calls this crime in women "drinking of barrenness, and murdering of infants before they

^r Tertull. Apologet. c. ix. (Paris. 1664. p. 9. D 4.) Nobis homicidio semel interdicto, etiam conceptum utero, dum adhuc sanguis in hominem deliberatur, dissolvere non licet. Homicidii festinatio est, prohibere nasci : nec refert, natam quis eripiat animam, an nascentem disturbet. Homo est et qui est futurus : etiam fructus omnis jam in semine est.

^s Minut. p. 91. (cap. xxx. n. 2. p. 114, edit. Hall. 1699.) (Vesont. 1836. p. 466.) Vos video procreatos filios nunc feris et avibus exponere, nunc astrangulatos misero mortis genere elidere. Sunt, quæ in ipsis visceribus medicaminibus epotis originem futuri hominis exstinguant et parricidium faciant, antequam pariant.—Vide Cyprian. epist. xlix. al. lii. ad Cornel. p. 97. (p. 238, edit. Amstelod.) de Parricidio Novati : Uterus uxoris calce percussus, et abortione properante in parricidium partus expressus, etc.

^t Athenag. Legat. p. 38. Πῶς οὖν, μηδὲ ὁρῶντες, ἵνα μὴ ἑαυτοῖς ἄγος καὶ μίαισμα προστριψαίμεθα, φονεύειν δυνάμεθα ; καὶ οἱ τὰς τοῖς ἀμβλωθριδίους χρωμένους, ἀνδροφονεῖν τε καὶ λόγον ὑφίξειν τῆς εξαμβλώσεως τῷ Θεῷ φάμεν, κατὰ ποῖον ἀνδροφονοῦμεν λόγον ; (Paris. 1742. p. 312. B.)

^u Hieron. epist. xxii. ad Eustoch. de Virginit. cap. v. (Venet. vol. i. p. 97. A 1.) Aliae sterilitatem præbunt, et necdum sati hominis homicidium faciunt.

were born." And it was a crime which the old Roman law^{*} punished with banishment, and sometimes with death:† as Tryphonus the lawyer observes out of Tully; though Tertulian complains that these laws were very much neglected and contemned. However, we see, in the Christian Church this sort of murder was reckoned a very heinous crime by all writers, and punished with great severity by the canons against wilful murder in the Church.

SECT. V.—*The punishment of Parricide.*

Indeed, this sort of murder was one species of parricide, which included not only the murder of parents, but of children, and other relations, to whom men were bound by natural affection. And this had a noted and peculiar punishment among the old Romans, which was to tie up the parricide in a sack with a serpent, an ape, a cock, and a dog, and throw them all alive into the sea; of which Gothofred will furnish the curious reader with great variety of instances out of the old Roman laws and writers. The Lex Pompeia changed this punishment into that of the sword, or burning, or throwing to wild beasts. But Constantine reduced the ancient punishment; and from his law,[‡] which I shall transcribe, we may take the account and description of it. "If any one hasten the fate of his parent, or son, or any the like relation, which goes under the name of 'Parricide,' whether he attempt

^{*} Digest. lib. xlviii. tit. viii. ad legem Corneliam de Sicariis, leg. viii. (p. 729.) Si mulierem visceribus suis vim intulisse, quo partum abigeret, constiterit; eam in exilium Præses provincie exiget. It. lib. xlvii. tit. xi. de extraordinariis criminibus, leg. iv. (p. 714.) Divus Severus et Antoninus rescripserunt, eam quæ data opera partum abegit, a Præsede in temporale exilium dandam.

† Digest. lib. xliii. tit. xix. leg. xxxix. Cicero in oratione pro Cluentio Avito scripsit, Milesiam quandam mulierem, quum esset in Asia, quod, ab heredibus secundis accepta pecunia, partum sibi medicamentis ipsa abegisset, rei capitalis esse damnatam.

[‡] Cod. Theod. lib. ix. tit. xv. de Parricidio, leg. i. (Lugdun. 1665.) Vide Gothofred. in locum, vol. iii. p. 112, 113. Si quis in parentis, aut filii, aut omnino adfectionis ejus, quæ nuncupatione parricidii continetur, fata properaverit, sive clam, sive palam id fuerit enisus, neque gladio, neque ignibus, neque ulla alia solemnî poena subjugetur, sed insutus culeo, et inter ejus ferales angustias comprehensus, serpentum contuberniis misceatur: et ut regionis qualitas tulerit, vel in vicinum mare, vel in amnem projiciatur: ut omni elementorum usu vivus carere incipiat; ut ei cælum superstiti, terra mortuo auferatur.

it privately or publicly, he shall not be punished with the sword, or with fire, or with any other common death ; but be sewed up in a sack with serpents and other beasts, and be cast into the sea or a river, as the nature of the place will admit : that he may be deprived of the use of all the elements, as long as he remains in being ; that he may have neither air to breathe in, whilst he lives ; nor earth to receive him, when he is dead." This was the punishment of such as slew father or mother, or son or daughter, or any such relation in the direct line. But if it was any other relation, then only the common death of murderers was inflicted on them ; as we learn from Justinian's Institutes^a and his Code, where this matter is determined. Now the Church, having no power of the sword, could make no such distinction ; but punished both sorts in the same way, with the spiritual censure of excommunication.

SECT. VI.—*Of Self-murder.*

And so she treated all those who laid violent hands upon themselves, who were known by the common name of 'Bia-thanati,' or self-murderers. . Because this was a crime that could have no penance imposed upon it, she showed her just resentment of the fact, by denying the criminals the honour and solemnity of a Christian burial, and letting them lie excommunicate and deprived of all memorial in her prayers after death. "If any one," says the first Council of Braga,^b "bring himself to a violent end, either by sword, or poison, or a precipice, or an halter, or any other way ; no commemoration shall be made of him in the oblation, nor shall his body be carried to the grave with the usual psalmody. And they who suffer death for their crimes, shall be treated after the same manner." The reason of treating both these sorts of men in this manner was, because they were accessory to their own deaths ;

^a Justin. Institut. lib. iv. tit. xviii. de Publicis Judiciis. (p. 38.) Si quis autem alias cognatione vel adfinitate personas conjunctas necaverit ; poenam legis Corneliæ de sicariis sustinebit. Vide Cod. Justin. lib. ix. tit. xvii. de his, qui parentes vel liberos occiderunt. leg. i. See note (*) in preceding page.

^b Concil. Bracar. I. c. xxxiv. Placuit ut hi, qui aut per ferrum, aut per venenum, aut per præcipitium, aut suspendium, aut quolibet modo violentam sibi ipsis inferunt mortem, nulla pro illis in oblatione commemoratio fiat, neque cum psalmis ad sepulturam eorum corpora deducantur. . . . Similiter et de his placuit fieri, qui pro suis sceleribus puniuntur.

either directly, by offering violence to their own lives ; or indirectly, by committing such capital crimes as brought them in the course of justice to an untimely end. Both the Greeks and Latins style them ‘*Biothanati*,’ or ‘*Biathanati*,’ from offering violence to themselves, or coming to a violent death. And Cassian particularly notes the discipline of the Church,^c then used toward such after death, speaking of the case of one Hero, an Egyptian monk, whom Satan, under the disguise of a good angel, had tempted to throw himself into a deep well, upon presumption that no harm could befall him for the great merit of his labours and virtues : “ For which fact,” he says, “ Paphnutius the abbot could hardly be prevailed upon not to reckon him among the *Biothanati*, or self-murderers, and deny him the privilege of being mentioned in the oblation for those that were at rest in the Lord.” Which is sufficient to show us the manner of treating such, in the ancient discipline of the Church.

SECT. VII.—*Of dismembering the body.*

It was also reckoned a species or lower degree of this crime, for any one to disfigure his own body, by cutting off any member or part thereof, without just reason to engage him so to do. The canons forbid any such to be ordained, as men who were in effect self-murderers^d and enemies of the workmanship of God ; as has been showed at large¹ in another place. What is further to be noted here, is, that this discipline extended to laymen as well as clergymen. For one of the Apostolical Canons^e orders, “ that a layman who dismembers himself, shall be debarred the communion for three years, because he insidiously makes an attempt upon his own life.” But if men were either born with a natural defect, or the barbarity of the persecutors, or the necessity of a disease deprived them

^c Cassian. collat. ii. c. v. (Lips. 1733. p. 240.)

^d Can. Apost. c. xxii. (Labbé, vol. i. p. 29.) Λαϊκὸς ἑαυτὸν ἀκρωτηριάσας, μὴ γινέσθω κληρικὸς· αὐτοφόνου γάρ ἐστι, [ἐστὶν ἑαυτοῦ] καὶ τῆς τοῦ Θεοῦ δημιουργίας ἐχθρὸς.—Conc. Nicæn. c. i. (Labbé, vol. ii. p. 29.) Εἰ τις ὑγιαίνων ἑαυτὸν ἐξέτεμε, τοῦτον καὶ ἐν τῷ κλήρῳ ἐξαεζόμενον πεπαῦσθαι προσήκει· καὶ ἐκ τοῦ δεῦρο μηδένα τῶν τοιούτων χρῆναι προσάγεσθαι.

¹ Lib. iv. c. iii. § ix.

^e Can. Apost. c. xxiii. al. xxv. (Labbé, vol. i. p. 30.) Λαϊκὸς ἑαυτὸν ἀκρωτηριάσας, ἀφορίζεσθω ἑτη τρία· ἐπίβουλος γάρ ἐστι τῆς ἑαυτοῦ ζωῆς.

of any member, in order to effect the cure of the body, and save the whole; in all these cases, there was no crime; because the thing was involuntary: in which cases the law itself made an exception, and freed men from incurring the censures^f of the Church, as may be seen in the Nicene canons, which particularly mention these as excepted cases. I only observe one thing further out of the laws of Constantine, that he had so great a regard to the face, as the image of the divine majesty in all human bodies whatsoever, that he would not suffer any mark of infamy to be set upon it, to stigmatize the greatest criminals. For whereas, by the old Roman laws, notorious criminals might be branded in the forehead, to make their offences more infamous and public; Constantine by one of his first laws cancelled and revoked this custom,^g ordering, “that whatever criminal was condemned either to fight with wild beasts, or to dig in the mines, he should not be stigmatized in the face but only in the hands or legs; that the face, which was formed after the image of the divine majesty and beauty, might not be disfigured.” Which certainly was intended piously by Constantine, as a just caution to restrain men from offering violence to their own bodies, which were created after the image and similitude of God in some measure; though that likeness was more visibly seen in the original perfections of the soul.

SECT. VIII.—*Of involuntary Murder by chance, or manslaughter.*

All these cases respect such actions, as have some tendency toward voluntary murder. Besides which, the Church allotted sometimes a proportionable punishment to accidental and involuntary murder, though the civil law took little or no notice of it. For by the old Roman and Christian laws, a master was allowed to punish and correct his slave with great severity: and if, in that correction, the slave chanced to die, no action

^f Concil. Nicæn. can. i. cit. lib. iv. c. iii. § ix.

^g Cod. Theod. lib. ix. tit. xl. de Pœnis, leg. ii. Si quis in ludum fuerit, vel in metallum, pro criminum deprehensorum qualitate, damnatus, minime in ejus facie scribatur: dum et in manibus et in suris possit poena damnationis una subscriptione comprehendi: quo facies, quæ ad similitudinem pulchritudinis cœlestis est figurata, minime maculetur. (Lugdun. 1665. vol. iii. p. 293.)

of murder could be brought^h against the master, unless it appeared that he used some weapon or fraud in his punishment, that tended directly to kill him. But notwithstanding this, the ecclesiastical law, having a more tender regard even to the life of slaves, took cognizance of such cruelties, and obliged the actors to a certain term of penance, though the murder was only casual, and not directly intended. To this purpose it is decreed in the Council of Eliberis,¹ that if any mistress, in the heat of her anger, so scourge her slave, that the slave die within three days; whereas it might be uncertain whether it was a voluntary or a chance murder; if it was a voluntary murder, she was to do penance seven years; if casual, only five years: and all the favour that was allowed in this case, was, that if sickness seized her, she might be admitted to communion sooner. We find a like decree in the discipline of the French Church, made by the Council of Epone, an. 517; that if any one put his slave to death^k without a legal trial before

^h Cod. Theod. lib. ix. tit. xii. (Lugdun. 1665. vol. iii. p. 79.) de Emendatione Servorum, leg. i. Si virgis aut loris servum dominus adfixerit, aut custodias causa in vincula conjecerit, dierum distinctione sive interpretatione depulsa, nullum criminis metum mortuo servo sustineat. Nec vero immoderate suo jure utatur, sed tunc reus homicidii sit, si voluntate eum vel ictu fustis aut lapidis occiderit, vel certe telo usus letale vulnus inflixerit; aut suspendi laqueo præceperit; vel jussione tetra præcipitandum esse mandaverit; aut veneni virus infuderit; vel dilaniaverit pœnis publicis corpus, ferarum vestigiis latera persecando, vel exurendo admotis ignibus membra; aut tabescentes artus, atro sanguine permixti sanie defluentes, prope in ipsis adegerit cruciatibus vitam linquere, sævitia immanium barbarorum. Leg. ii. Quotiens verbera domino talis casus servorum comitabitur ut moriantur, culpa nudi sunt, qui dum pessima corrigunt, meliora suis adquirere vernaculis voluerunt. Nam requiri in hujusmodi facto volumus, in quo interest domini incolume juris proprii habere mancipium, utrum voluntate occidendi hominis, an vero simpliciter facta castigatio videatur: totiens etenim dominum non placet morte servi reum homicidii pronuntiari, quotiens simplicibus quæstionibus domesticam exercent potestatem. Si quando igitur servi plagarum correctione, imminenti fatali necessitate, rebus humanis excedunt, nullam metuant domini quæstionem.

ⁱ Concil. Illyberrit. can. v. (Labbé, vol. i. p. 971.) Si qua domina, furore zeli accensa, flagris verberaverit ancillam suam, ita ut [in] intra tertium diem animam cum cruciatu effundat, eo quod incertum sit, voluntate an casu occiderit; si voluntate, post septem annos; si casu, post quinquennii tempora, acta legitima poenitentia, ad communionem placuit admitti. . . . Quod si infra [intra] tempora constituta fuerit infirmata, accipiat communionem.

^k Concil. Epæon. c. xxxiv. (Labbé, vol. iv. p. 1580.) Si quis servum proprium

the judge, he should expiate his murder by excommunication for two years. And it is remarked of Cæsarius Arelatensis by the author¹ of his life, that he was used to protest to the prefects of the Church, who had then power to inflict corporal punishment, that if they scourged any one to an immoderate degree, so as that he died under his stripes, they should be held guilty of murder. Nay, so tender was the Church in this point of shedding man's blood, that she would not ordinarily allow any soldier to be ordained to any sacred office of presbyter or deacon; nor suffer her bishops to sit as judges in capital causes, where they might be concerned to give sentence in cases of blood; as I have had occasion to show more at large in their proper places,¹ to which I refer the reader. Among the Apostolical Canons, there is one that orders, that "if any clergyman^m in a brawl or scuffle smite another, so as to kill him, though it were by the first blow, he shall be deposed; if a layman, he shall be cast out of communion." And St. Basil's canonsⁿ impose eleven years' penance upon all voluntary murderers whatsoever.

SECT. IX.—*False-witness against any man's life reputed Murder.*

Neither was it only actual murder which they thus censured, but all actions that had any direct or immediate tendency towards it; as bearing false-witness against a man's life. For, as Lactantius^o well expresses it, "there is no difference between killing

sine conscientia judicis occiderit, excommunicatione biennii effusionem sanguinis expiabit.

¹ Cyprian. vit. Cæsar. Arelat. Contestabatur ecclesie præfectos, si quis juberet quempiam diutius flagellari, et illa verbera illi mortem afferrent, ut is homicidii reum se sciret.

¹ Lib. iv. cap. iv. § i. et lib. ii. cap. vii. § vi.

^m Can. Apost. c. lxiv. (Labbé, vol. i.) Εἰ τις κληρικὸς ἐν μάχῃ τινὰ κρούσας, καὶ ἀπὸ τοῦ ἐνὸς κρούσματος ἀποκτείνῃ [-ει], καθαιρεῖσθω, διὰ τὴν προπίτειαν αὐτοῦ· ἐὰν [εἰ] δὲ λαϊκὸς ᾗ [εἴη], ἀφορίζεσθω.

ⁿ Basil. can. lvii. (Labbé, vol. ii. p. 1748.) Ὁ ἀκουσίως φονεύσας, ἐν δέκα ἔτεσιν ἀκοινώνητος ἔσται τῶν ἁγιασμάτων· οἰκονομηθήσεται δὲ ἐπ' αὐτῷ τὰ δέκα ἔτη οὕτω· δύο μὲν ἔτη προσκλαύσει, τρία δὲ ἔτη ἐν ἀκρωμένοις διατελέσει· ἐν δ' ὑποπίπτων· καὶ ἐν ἐνιαυτῷ σταθήσεται μόνον· καὶ τὰ ἑξῆς εἰς τὰ ἅγια δεχθήσεται.

^o Lactant. lib. vi. c. xx. Neque vero accusare quemquam crimine capitali

a man with the sword or with the tongue: it is murder still in either species, and a violation of God's law against invading the life of man, which admits of no exception." And therefore the civil^p law appointed the punishment of retaliation to be inflicted on every false accuser, that if any one called another man's credit, or fortune, or life, or blood, into question in judgment, and could not make out the crime alleged against him; he should suffer the same penalty that he intended to bring upon the other. And no one could formally implead another at law, till he had bound himself to this condition, which the law^q terms 'vinculum inscriptionis,' the bond of inscription. Now though the ecclesiastical law could not inflict the punishment of retaliation for false-witness against any man's life; yet all false testimony being a crime punishable with excommunication; (as we shall see more fully under the punishment of sins against the ninth commandment;) we may be sure, such false testimony as tended directly to deprive men of their lives, must be reputed by the Church among the highest species both of calumny and murder; and consequently bring them under all the penalties that were due to those crimes in any degree^r whatsoever.

(instar licebit): quia nihil distat, utrumne ferro an verbo potius occidas; quoniam occisio ipsa prohibetur. Itaque in hoc Dei præcepto nullam prorsus exceptionem fieri oportet, quin occidere hominem sit semper nefas, quem Deus sanctum animal esse voluit. (Vesont. 1838. p. 184.)

^p Cod. Theod. lib. ix. tit. i. de Accusationibus, leg. xi. (Lugdun. 1665. vol. iii. p. 15.) Qui alterius famam, fortunas, caput denique et sanguinem in judicium devocaverit, sciat, sibi impendere congruam poenam, si, quod intenderit, non probaverit. Item leg. xix. Quisquis ille est, qui crimen intendit, in judicium veniat . . . nec impunitam fore noverit licentiam mentiendi, quum calumniantes ad vindictam poscat similitudo supplicii.

^q Ibid. leg. xiv. (Lugdun. 1665. vol. iii. p. 19.) Non prius cujuscumque caput accusatione pulset, quam vinculo legis adstrictus pari cœperit poenæ conditione jurgare, etc. Et leg. xix. Vinculum inscriptionis accipiat, etc.—— Leon. Novell. lxxvii. Θεσπίζομεν τοίνυν, τὸν τοιαῦτα τινὰ πλαστογραφῆσαντα, δι' ὧν τὸ πλαστογράφημα ἰσχὺν λαμβάνει, θανάτῳ ὑπάγειν τὸν καθ' οὗ συνεπλάσθη, αὐτὸν, παραδιδόμενον τῇ τιμωρίᾳ, ἣν καθ' ἐτέρου ἐσκήψατο παλαμήσασθαι, ἀποτέμνεσθαι. (Amstel. 1663. p. 265.)

^r Concil. Illiber. c. lxxiv. (Labbé, vol. i. p. 978.) Falsus testis, prout est crimen, abstinetur: si tamen non fuerit mortale quod objecit et [ex-]probaverit; quod non tacuerit, biennii tempore abstineatur: si autem non probaverit conventui clericorum, placuit, per quinquennium abstineri.

SECT. X.—*Informers against the Brethren in time of persecution treated as Murderers.*

Yea, a bare information, or discovery of the names of the brethren to the heathen magistrates, for as much as that, in times of difficulty and persecution, might endanger their lives, was justly reputed and censured as murder likewise. The first Council of Arles^s orders, that if “any such informers were found among the clergy, and convicted from the public acts, that they had betrayed either the holy Scriptures, or the sacred utensils, or the names of their brethren to the heathen, they should be degraded from their orders.” And the Council of Eliberis goes^t a little further, and determines, that “if any Christian informed against his brethren, so as that any one was proscribed or slain upon his information, he should not be received into communion at the last,” or not *till his last hour*, as different copies read it.

SECT. XI.—*Exposing of Infants reputed Murder.*

Another sort of interpretative murder, was, the exposing of infants, against which the ancients commonly declaim with great vehemency in the practice of the heathen. “You accuse us (says Tertullian) of murdering infants; but let me turn to your people, and appeal to their consciences; and then how many may I find among those that stand about us, and thirst after Christian blood; nay, among those just and severe judges that condemn us, who kill their children as soon as they are born, or else expose^u them to cold, and famine, and dogs?

^s Concil. Arelat. I. xiii. (Labbé, vol. i. p. 1428.) De his, qui scripturas sanctas tradidisse dicuntur, vel vasa dominica, vel nomina fratrum suorum, placuit nobis, ut quicumque eorum in actis publicis fuerit detectus, non verbis nudis, ab ordine cleri amoveatur.

^t Concil. Illiber. c. lxxiii. et c. lxxiv. modo citat. Delator si quis exstiterit fidelis, et per delationem ejus aliquis fuerit proscriptus vel interfectus, placuit eum *nec [non nisi]* in fine accipere communionem.

^u Tertull. Apol. c. ix. (Paris. 1664. p. 9. D.) Quot vultis ex his circumstantibus et in Christianorum sanguinem hiantibus, ex ipsis etiam vobis justissimis et severissimis in nos præsidiis apud conscientias pulsem, qui natos sibi liberos enecent? Siquidem et de genere necis differt, utique crudelius in aqua spiritum extorquetis, aut frigori, et fami, et canibus exponitis. . . . Filios exponitis

You expose your children to the mercy of strangers, and the next comers that will take pity on them, and adopt them more kindly for their own children." The same charge is brought against them by Minutius Felix,^x "that they exposed their children, as soon as they were born, to wild beasts and birds of prey." Athenagoras says^y expressly, "All such are parricides or murderers of their children." And Lactantius^z a little more largely inveighs against them upon the same foundation. "They pretended, (he says,) by a sort of false piety, to expose them only to keep them from starving, because they were poor and not able to maintain them. But they cannot be deemed innocent, who cast their own bowels as a prey to dogs, and (as much as in them lies) kill them more cruelly than if they strangled them. Who can question the impiety of him, who leaves no room for others to show mercy? But admit that he attains his end, which he pretends, that his child is thereby nourished and brought up; yet doubtless he condemns his own blood either to slavery or the stews;" of which there were many examples in both sexes. Therefore he concludes, "that for men to expose their children, was the same base and villanous action as to kill them." And whereas men were apt to complain of their poverty, and pretend they were not able to bring up many children; he not only answers this from considerations of providence, in whose power the fortunes and possessions of all men are, to make rich men poor, and poor men rich; but is also thought by his prudent advice to have induced Constantine to enact those two excellent and

suscipiendos ab aliqua prætereunte misericordia extranea, vel adoptandos melioribus parentibus emancipatis.

^x Minut. p. 90. (p. 114, edit. Cellar. Hall. 1699.) Vos video procreatos filios nunc feris et avibus exponere, nunc adstrangulatos misero mortis genere elidere.

^y Athenagor. Legat. pro Christian. p. 38. Καὶ μὴ ἐκτιθεῖναι μὲν τὸ γεννηθὲν, ὡς τῶν ἐκτιθέντων τεκνοκτονούντων, πάλιν δὲ τὸ τραφὲν ἀνασχεῖν. (Paris. p. 312.)

^z Lactant. lib. vi. c. xx. Quid illi, quos falsa pietas cogit exponere? Num possunt innocentes existimari, qui viscera sua in prædam canibus objiciunt, et quantum in ipsis est, crudelius necant, quam si strangulassent? Quis dubitet, quin impius sit, qui alienæ misericordiæ locum tribuit? qui etiamsi contingat ei, quod voluit, ut alatur, addixit certe sanguinem suum vel ad servitutem vel ad lupanar. Quæ autem possint, vel soleant accidere in utroque sexu per errorem, quis non intelligit? quis ignorat? Quod vel unius Œdipodis declarat exemplum, duplici scelere confusum... Tam igitur nefarium est exponere, quam necare. (Vesont. 1838. p. 184.)

charitable laws, still extant in the Theodosian ^a Code, whereby it is provided by his great munificence in several parts of the empire, that poor parents who had numerous families, which they could not maintain, should have relief out of the public revenues of the empire ; that they might be under no temptation either to expose, or kill, or sell or oppignorate and enslave their children : of which there had been so great complaints, under the former reigns of heathenism. Constantine ^b and Honorius added two other laws to these, in favour of such as took care of exposed children, that “parents should have no right to claim them again, nor accuse those of theft or plagiary, who showed mercy on those whom they exposed to death, and by their neglect suffered to perish ; provided only that the collectors of such children make evidence before the bishop, that they were really exposed and deserted.” And in this case, the ecclesiastical laws concurred with the secular, adding the penalty of excommunication, to be inflicted on all parents who thus proved themselves ‘guilty of murdering their children :’ for so the canons expressly word it. The Council of Vaison first prescribes the method of ascertaining such children to the right and possession of those who became their foster-fathers, according to the tenor of the imperial laws ; and then pronounces those who exposed them, guilty of murder by their own confession. “A clamour,”^c says the council, “is made on

^a Cod. Theod. lib. xi. tit. xxvi. de Alimentis, etc. leg. i. et ii. cit. cap. ix. § i. sub litt. (b) p. 191.

^b Cod. Theod. lib. v. tit. vii. de Expositis, leg. i. (Lugdun. 1665. vol. i. p. 445.) Quicumque puerum vel puellam, projectam de domo, patris vel domini voluntate scientiæque collegerit, ac suis alimentis ad robur provexerit, eundem retineat, sub eodem statu, quem apud se recollectum voluerit agitare, hoc est, sive filium, sive servum eum esse maluerit ; omni repetitionis inquietudine penitus submovenda eorum, qui servos aut liberos propria voluntate domo recens natos abjecerint. Leg. ii. Nullum dominis vel patronis repetendi aditum relinquimus, si expositos quodammodo ad mortem voluntas misericordiæ amica collegerit : nec enim dicere suum poterit, quem pereuntem contempsit ; si modo testes episcopalis subscriptio fuerit subsequuta, de qua nulla penitus ad securitatem possit esse cunctatio.

^c Concil. Vas. II. c. ix. (Labbé, vol. iii. p. 1459.) De expositis, quia conclamata ab omnibus querela processit, eos non misericordiæ jam, sed canibus exponi ; quos colligere calumniarum metu, quamvis inflexa præceptis misericordiæ, mens humana detrectet ; id servandum visum est, ut secundum statuta fidelissimorum, piissimorum, augustissimorum principum, quisquis expositum colligit, ecclesiam

all sides, and complaint brought before us concerning exposed children, that they are now no longer exposed to the mercy of Christians, but to be devoured by dogs, because every one refuses to take them up, for fear of prosecution from false accusers; we therefore decree, that according to the laws of pious emperors and princes, whoever takes up an exposed child, shall make testimony thereof unto the Church; and the minister on the Lord's-Day shall publish it at the altar, that if any one owns it within ten days, he may receive it again; giving a recompence to the finder for his charitable care for that term, or letting him keep it for ever as his own possession." But the next canon^d adds, "that if any one, after this legal form of proceeding has been observed in the case, pretend to claim the exposed infant, or accuse the finder as a plagiarist or man-stealer, he himself shall be punished as a murderer by the censures of the Church." All which manifestly proves, that in the account of conscience and the ancient discipline, the parent who deserts his infant, and leaves it defenceless to the injuries of fortune, or want, or the weather, or wild beasts, is a real murderer, as doing that in consequence of which murder necessarily ensues, unless some favourable providence interposes to prevent it.

SECT. XII.—*If a Virgin deflowered, kills herself for grief, the Corrupter is reputed guilty of the Murder.*

For the same reason some canons appointed all accessories to murder to do the same penance as the murderers themselves. The Council of Ancyra puts a special case of this nature. A man that is espoused to a woman, deflowers her sister, and afterward marries the other: she that is so defiled, hangs

contestetur, contestationem colligat: nihilominus de altario dominico die minister adnuntiet, ut sciat ecclesia expositum esse collectum, ut infra dies decem ab expositionis die expositum recipiat, si quis se comprobaverit agnovisse: collector pro ipsorum decem dierum misericordia, prout maluerit, aut ad præsens ab homine, aut in perpetuum cum Deo gratia persolvenda.

^d Conc. Vas. can. x. (Labbé, vol. iii. p. 1459.) Sane si quis post hanc diligentissimam sanctionem expositorum hoc ordine collectorum repetitor, vel calumniator extiterit, ut homicida ecclesiastica districtione feriat. Vide Concil. Arelat. II. c. xxxii. where the same things are repeated.

herself for grief: the man, as accessory to the murder,^e is ordered to do ten years' penance for his crime, before he is allowed to appear among the co-standers at the communion.

SECT. XIII.—*The Lanistæ, or fencing-masters, reputed accessories to Murder, and their calling condemned.*

The case of the 'Lanistæ,' or masters of fencing, was much of the same nature. Their art in preparing gladiators for the theatre, was always reputed a scandalous trade; being in effect no better than teaching men to murder and butcher one another. And therefore the Church would never allow it as a lawful profession. Tertullian^f says expressly, "that the prohibition of murder showed that there was no place for fencers in the Church: for they were impleaded guilty of shedding that blood which they taught others to shed." The author of the Constitutions puts gladiators in the number of those who were to be rejected from^g baptism. And Constantine prohibited the art itself as unchristian; ^h ordering such criminals as were used to be condemned to fight for their lives upon the stage, rather to be sent to the mines, that they might suffer punishment without blood. For though in the beginning of his reign, he allowed it to be used as a punishment for some crimes; (as in the case of plagiary or man-stealing, which they that were guilty of, were condemnedⁱ to fight for their lives with wild

^e Concil. Ancy. c. xxv. (Labbé, vol. i. p. 1464.) *Μνηστευσάμενός τις κόρην, προσεφθάρη τῇ ἀδελφῇ αὐτῆς, ὡς καὶ ἐπιφορέσαι αὐτήν· ἔγημε δὲ τὴν μνηστὴν μετὰ ταῦτα· ἡ δὲ φθαρεῖσα ἀπήγατο· οἱ συνειδότες ἐκελεύσθησαν ἐν δεκαετίᾳ δεχθῆναι εἰς τοὺς συνεστῶτας, κατὰ τοὺς ὠμισμένους βαθμούς.*

^f Tertull. de Idololatr. c. xi. (Paris. 1664. p. 91, last line.) *Homicidii interdictio ostendit mihi lanistam quoque ab ecclesia arceri: nec per se non faciet, quod faciendum aliis subministrat.*

^g Constitut. lib. viii. c. xxxii. (Labbé, vol. i. p. 496. E 6.) *Τῶν ἐπὶ σκηνῆς ἰάν τις προσείη ἀνὴρ, ἡ γυνὴ, ἡ ἡνίοχος, ἡ μονομάχος . . ἡ πανσάθωσαν ἡ ἀποβαλλέσθωσαν.*

^h Cod. Theod. lib. xv. tit. xii. de Gladiatoribus, leg. i. (Lugdun. 1665. vol. v. p. 395.) *Cruenta spectacula in otio civili et domestica quiete non placent: quapropter, qui omnino gladiatores esse prohibemus, eos qui forte delictorum causa hanc conditionem atque sententiam mereri consueverant, metallo magis facies inservire, ut sine sanguine suorum scelerum poenas agnoscant.*

ⁱ Cod. Theod. lib. ix. tit. xviii. ad legem Fabiam, leg. i. (Lugdun. 1665. vol. iii. p. 154.) *Plagiarii, qui viventium filiorum miserandas infligunt parenti-*

beasts or one another :) yet afterwards he seems to have revoked this also. And Valentinian absolutely forbad any Christian or any Palatine soldier to be condemned^k to this punishment. Nay, some of the wiser heathens always abhorred and declared against it. And therefore there was more reason to prohibit the whole art and practice of gladiators under the Christian institution, which Honorius the emperor^l quite abolished and destroyed.

SECT. XIV.—*Spectators of the Murders committed on the Stage accounted accessories to Murder also.*

But the Christian laws and rules of the Church went a little further. They not only condemned the murders of the stage, but forbad any one to be a spectator of them, under the penalty of being reputed accessory to the murder. Cyprian

bus orbitates, metalli pœna, cum ceteris ante cognitis suppliciis tenebantur. Si quis tamen ejusmodi reus fuerit oblatus, posteaquam super crimine patuerit, servus quidem vel libertate donatus, bestiis primo quoque munere objiciatur, liber autem sub hac forma in ludum detur gladiatorium, ut antequam aliquid faciat, quo se defendere possit, gladio consumatur.

^k Cod. Theod. lib. ix. tit. xl. de Pœnis, leg. viii. (Lugdun. 1665. vol. iii. p. 299.) Quicumque Christianus sit in quolibet crimine deprehensus, ludo non adjudicetur. Quod si quisquam judicum fecerit, et ipse graviter notabitur, et officium ejus multæ maximæ subiacebit. Leg. xi. Neminem de numinis nostri sacrario prodeuntem harena suscipiat, lanista doceat, sæva meditatio et pugnatrice exerceat; multa siquidem possunt esse supplicia, quibus culpa plectatur.

^l Vide Pagi Critic. in Baron. tom. ii. an. ccciv. n. v. ex Prudentio contr. Symmachum, lib. ii. Prudentius (inquit Pagius) Honorium Romæ hoc anno positum cohortatur ad ludos gladiatorios Romæ penitus tollendos, votumque et preces pro iis tollendis apud Principem interponit. Sic enim de virginibus agens scribit: (Antwerp. 1737. vol. ii. p. 59.) (Valpy, vol. ii. p. 865.) (1115.)

Quod genus ut sceleris jam nesciat aurea Roma,
Te precor, Ausonii dux augustissime regni,
Et tam triste sacrum jubeas, ut cetera, tolli.
Perspice: non ne vacat meriti locus iste paterni,
Quem tibi supplendum Deus et genitoris amica
Servavit pietas! solusne præmia tantæ
Virtutis caperet, Partem tibi, nate, reservo.
Dixit, et integrum decus intactumque reliquit.
Arripe dilatam tua, dux, in tempora famam,
Quodque patri superest, laudis successor habeto.
Ille urbem vetuit taurorum sanguine tingi;
Tu mortes miserorum hominum prohibeto litari.
Nullus in urbe cadat, cujus sit pœna voluptas.

describing the impiety and barbarity of these inhuman games, elegantly styles^m all spectators of them, ‘*oculis parricidas*,’ men guilty of murder with their eyes: intimating, that no one could entertain himself with the pleasing sight of them without partaking in the guilt, and defiling his soul with the contagion of the murders committed in them. “There is little difference,” (says Athenagoras,) between seeing such murders, and committing them; and therefore we wholly abstain from the sight of them, lest any of their wickedness and defilement should cleave to us.” Lactantius in his elegant and fluent way declaims more copiously and vehemently against them. “He that accounts it a pleasure, (says he,)° to see a man killed before his eyes, though it be a criminal condemned for his villanies, pollutes his conscience, as much as if he were both a spectator and partaker of any secret murder. And yet they call these things only games and diversions, wherein human blood is shed. So far are men forsaken of humanity, that they count it but sport to destroy men’s lives or souls, being really more wicked and injurious than those very criminals, whose blood they make their diversion.” Upon this account, in the eye of the Church, to frequent these inhuman games was the same thing as to commit murder; and no man could associate with such company, and follow such diversions, but he was reputed to bid adieu to all humanity, piety, and justice, and to make himself partaker in all the guilt of those public murders.

^m Cypr. ad Donat. p. 5. (p. 4, edit. Amstelod.) Et in tam impiis spectaculis tamque diris et funestis, esse se non putant oculis parricidas.

ⁿ Athenagor. Legat. pro Christ. p. 38. Ἡμεῖς πλησίον εἶναι τὸ ἰδεῖν τὸν φονεούμενον τοῦ ἀποκτείνει νομίζοντες, ἀπηγορεύσαμεν τὰς τοιαύτας θίας.

° Lactant. lib. vi. c. xx. (p. 784, edit. Lips. 1715.) Qui hominem, quamvis ob merita damnatum, in conspectu suo jugulari pro voluptate computat, conscientiam suam polluit, tam scilicet, quam si homicidii, quod fit occulte, spectator et particeps fiat. Hos tamen ludos vocant, in quibus humanus sanguis effunditur. Adeo longe ab hominibus recessit humanitas, ut quum animas hominum interficiant, ludere se opinentur, nocentiores iis omnibus, quorum sanguinem voluptati habent. (Vesont. 1838. p. 483.)

SECT. XV.—*Famishers of the poor and indigent reputed guilty of Murder.*

The charge of murder was also brought against those who denied the poor their necessary maintenance, and defrauded their indigent parents of their proper livelihood, suffering them to perish by famine or want, against the laws of piety and natural affection. The fourth Council of Carthage^p upon this account terms those, who defrauded the Church of the oblations of the dead, ‘egentium necatores,’ murderers of the poor; and, as such, orders them to be prosecuted to excommunication. And Cyprian, speaking of the villanies of Novatus, says, among other instances of his being guilty of parricide and murder (such as causing his wife to miscarry by a kick on the belly, when she was great with child), he suffered his own father to starve^q and perish by famine, and left him unburied after death. For which crimes he had certainly been expelled not only from the presbytery, but from all communion with the Church, had not the difficult times of approaching persecution prevented the day of his trial, and given him opportunity to escape the condemnation that was due to him by the just discipline and censures of the Church. All these were reckoned guilty of murder, indirectly at least, as accessories and partakers in the sin, though their hands were not actually and directly engaged in shedding of blood.

SECT. XVI.—*And all those by whose authority Murder was committed.*

But none were reputed more guilty of murder than they by whose authority it was committed. Though the inferior instruments were not acquitted, yet the crime was chiefly laid to the charge of the principal authors. Therefore as David

^p Concil. Carthag. IV. c. xciv. (Labbé, vol. ii. p. 1207.) Qui oblationes defunctorum aut negant ecclesiis, aut cum difficultate reddunt, tamquam egentium necatores excommunicentur.

^q Cypr. epist. xlix. al. lii. ad Cornel. (Oxon. 1682. p. 97.) (p. 238, edit. Amstelod.) Pater etiam ejus in vico fame mortuus, et ab eo in morte postmodum nec sepultus. Uterus uxoris calce percussus, et abortione properante in parricidium partus expressus.

was charged by Nathan with the murder of Uriah, though he was slain through the treachery of Joab by the sword of the children of Ammon; so Theodosius, when by his orders and authority seven thousand men were slaughtered at Thessalonica, was charged by St. Ambrose as the principal author of the murder; and according to the rules of discipline denied the communion of the Church, till he had made a suitable and reasonable satisfaction. For though, as Cyprian complains^r to his friend Donatus, under the heathen emperors public murder was esteemed a virtue, which in private men was punished as a great crime; yet it was not so under the Christian institution, but there was a power to bring even emperors and princes under discipline for such public offences, as appears from the case of Theodosius now mentioned. And the case of the ‘Munerarii,’ that is, such Christian magistrates as exhibited the munera, or inhuman games, where men murdered one another upon the stage, is a further evidence of this power and practice. For the canons of the Church¹ order all such magistrates to be excommunicated, as contributing by their authority and expenses both to idolatry and murder. So that murder, in whatever species it appeared, or by whatever persons it was committed, was always reputed a crime of the first magnitude, exposing men to the utmost severity of ecclesiastical censure.

SECT. XVII.—*Enmity and Strife and Contention punished as lower degrees of Murder.*

And it must be added, that all open enmity and quarrelling, strife, envy, anger and contention, professed malice and hatred, were punished with excommunication, as tendencies toward this great sin, and lower degrees of murder. St. John says, “He that hateth his brother is a murderer; and no murderer hath eternal life abiding in him.” Our Saviour also declares, “That he that is angry with his brother without a cause, shall be in danger of the judgment; and whosoever

^r Cyprian. ad Donat. (Oxon. 1682. p. 5.) (p. 4, edit. Amstel.) Homicidium quum admittunt singuli, crimen est; virtus vocatur, quum publice geritur.

¹ Vide Book xvi. c. iv. § viii. vol. vi. p. 15.

shall say to his brother, Raca, shall be in danger of the council : but whosoever shall say, Thou fool, shall be in danger of hell-fire." Now agreeably to these instructions, the Church, to prevent or correct all tendencies toward the great sin of murder, laid proper restraints and penalties upon the unruly passions of men, whenever they discovered themselves in any visible acts of malice or hatred, and strife and contention. The communion was the great symbol of love and charity, and the covenant of peace and unity, and the great uniter of men's hearts and affections. Therefore all who visibly wanted these necessary qualifications, were thought unworthy of that venerable mystery; and accordingly obliged by the discipline of the Church (till they were so qualified) to abstain from it. The fourth Council of Carthage^a made an order, "That the oblations of such as were at enmity or open variance with their brethren, should neither be received into the treasury of the Church nor at the altar:" which was as much as to say, they should not communicate whilst they were in that condition. And the second Council of Arles^t removes those from the privilege of joining with the assemblies of the Church, who break forth into public hatreds and animosities one against another, until they are reconciled, and return to peace again. They that evil intreat their servants or slaves with stripes, famine, or hard bondage, are ordered to be refused communion by the rules^u of the Constitutions. And Chrysostom often warns^x the clergy, that they should admit no cruel or unmerciful man to the communion. For if they gave the Eucharist wittingly

^a Concil. Carth. IV. can. xciii. (Labbé, vol. ii. p. 1207.) Oblationes dissidentium fratrum, neque in sacrario, neque in gazophylacio recipiantur.

^t Concil. Arelat. II. c. xxxi. (l.) (Labbé, vol. iv. p. 1016.) Hi, qui publicis inter se odiis exardescunt, ab ecclesiasticis conventibus [sunt] removendi, donec ad pacem recurrant.

^u Constit. lib. iv. c. vi. (Labbé, vol. i. p. 330.) Φευκαταῖοι τῷ ἐπισκόπῳ . . . οἱ τοῖς ἑαυτῶν οἰκέταις πονηρῶς χρώμενοι, πληγαῖς φημι, καὶ λιμῷ καὶ κακοδουλίᾳ.

^x Chrysost. Homil. lxxxiii. in Matth. p. 705. B 2. (p. 869, edit. Francof. 1697.) Μηδεὶς ὥμος καὶ ἀνελεῖς, μηδεὶς [ὅλως] ἀκάθαρτος (προσίτω) ταῦτα πρὸς ὑμᾶς τοὺς μεταλαμβάνοντας λέγω, καὶ πρὸς ὑμᾶς τοὺς διακονομένους. . . . οὐ μικρὰ κόλασις ὑμῖν ἐστίν, εἰ συνειδότες τινὶ πονηρίᾳ συγχωρήσητε μετασχεῖν ταύτης τῆς τραπίζης· τὸ [γάρ] αἷμα αὐτοῦ ἐκ τῶν χειρῶν ἐκζητη-

to any such flagitious man, his blood would be required at their hands. "Though it be a general, though it be a consul, though it be he that wears the crown, restrain him, if he comes unworthily: thou hast greater power than he." But this was to be understood of great and enormous violations of charity, expressing themselves in open and professed acts of cruelty; not of every lower degree of anger, especially rash and sudden anger, which, as I showed before,¹ was to be cured by other methods, and not by the highest remedies of severity in the exercise of ecclesiastical censure. These were the rules of discipline, whereby the Church proceeded in censuring and punishing the great sin of murder, with all its species and appendages, so far as it was either possible or proper to take notice of them; reserving the rest for the gentler methods of admonition and verbal correction, which, in ordinary cases and lighter transgressions of this kind, was sufficient for the amendment of the sinner.

CHAPTER XI.

OF GREAT TRANSGRESSIONS AGAINST THE SEVENTH COMMANDMENT, FORNICATION, ADULTERY, INCEST, &c.

SECT. I.—*The punishment of Fornication.*

ANOTHER sort of great crimes, which always made men liable to the severities of ecclesiastical discipline, were the sins of uncleanness, or transgressions of the seventh commandment: such as fornication, adultery, ravishment, incest, polygamy, and all sorts of unnatural defilement with beasts or mankind; and all things leading or paving the way to such impurities, as

θήσεται τῶν ὑμετέρων κὰν στρατηγός τις ἢ, κὰν ὑπαρχος, κὰν αὐτὸς ὁ τὸ διάδῃμα περικείμενος, ἀναξίως δὲ προσεῖη, μείζονα ἐκείνου τὴν ἐξουσίαν ἔχεις.

¹ Vol. v. Book xvi. c. iii. § xiv. p. 555, seqq.

rioting and intemperance, writing or reading lascivious books, acting or frequenting obscene stage-plays, allowing or maintaining harlots; or whatever of the like kind may be called 'making provision for the flesh to fulfil the lusts thereof.' To begin with simple fornication: the heathen laws were so far from laying any effectual restraints, that they not only allowed it with impunity, but many times encouraged it in the very sacred rites and mysteries of their gods, as the ancient apologists often object it against their religion: whereas the Christian religion laid great and severe penalties upon all such as, under the name of Christians, were found guilty of it. The Apostolical Canons,^a and those of Neocæsarea,^b forbid such ever to be received into holy orders; or to be suspended, if unwittingly ordained. The Council of Eliberis^c suspends virgins who keep not their virginity, a whole year from the communion; obliging them to marry those that defiled them: otherwise they are to undergo five years' solemn repentance; because if they are corrupted by others, they become guilty of adultery; which, as we shall presently see, had a more severe punishment than simple fornication.

SECT. II.—Of Adultery.

For whereas St. Basil's canons appoint seven years' penance for fornication only, they prescribe fifteen for adultery,^d and

^a Can. Apost. liii. al. lx. (Labbé, vol. i. p. 40.) Εἰ τις κατηγορία γένηται κατὰ πιστοῦ, πορνείας ἢ μοιχείας, ἢ ἄλλης τινὸς ἀπηγορευμένης πράξεως, καὶ ἐλεγχθῇ (-εἴη), εἰς κλῆρον μὴ [προσ]αγέσθω.

^b Concil. Neocæsar. c. ix. (Labbé, vol. i. p. 1482.) Πρεσβύτερος, ἐὰν προημαρτηκῶς σώματι προαχθῇ, καὶ ὁμολογήσῃ, ὅτι ἤμαρτε πρὸ τῆς χειροτονίας, μὴ προσφερέτω, μένων ἐν τοῖς λοιποῖς διὰ τὴν ἄλλην σπουδὴν.

^c Illiberitan. c. xiv. (Labbé, vol. i. p. 972.) Virgines, quæ virginitatem suam non custodierint, si eosdem qui eas violaverint, duxerint et tenuerint maritos, eo quod solas nuptias violaverint post annum, sine pœnitentia, reconciliari debebunt. Vel si alios cognoverint viros, eo quod mœchatae sint, placuit, per quinquennii tempora, acta legitima pœnitentia, admitti eas ad communionem oportere.

^d Basil. c. lviii. (Labbé, vol. ii. p. 1749.) Ο μοιχεύσας ἐν α'. ἔτεσιν ἀκοινωνητος ἔσται τῶν ἁγιασμάτων, κ. τ. λ.—Can. lix. 'Ο πόρνος ἐν ἑπτὰ ἔτεσιν ἀκοινωνητος ἔσται τῶν ἁγιασμάτων, κ. τ. λ.

sometimes double^e the number. The Council of Ancyra^f imposes seven years for adultery, but makes no express mention of fornication. The Council of Eliberis appoints five years' penance for a single act^g of adultery; and ten years,^h if repeated: but if any continued in it all their lives, they were not to have the communion at their last hour. And in some of the African Churches, before the time of St. Cyprian, this was the common punishment for all adultery. For he says,ⁱ "Some of his predecessors refused the peace of the Church to all adulterers, and shut the door of repentance wholly against them; though it was otherwise in his time, when adulterers had a certain term of penance appointed them, after which they might be restored to the peace of the Church." Whence Bishop Pearson^k rightly reproves Albaspinæus for asserting that adulterers were never received into communion before the time of Cyprian. For Cyprian says expressly, "They were received to repentance in most Churches, though rejected by some." And it appears plainly from Tertullian, who lived before Cyprian, and wrote his book 'De Pudicitia,' as a Montanist, against the Catholics, for receiving adulterers to their

^e Ibid. can. vii. (Labbé, vol. i. p. 1724.) *Τοὺς ἐν τριάκοντα ἔτεσι μετανοήσαντας ἐπὶ τῇ ἀκαθαρσίᾳ, ἣν ἐν ἀγνοίᾳ ἐπραξαν, οὐκ ἀμφιβάλλειν ἡμᾶς προσήκειν εἰς τὸ παραδέξασθαι.*

^f Concil. Ancyra. c. xx. (Labbé, vol. i. p. 1464.) *Ἐάν τινας γυνὴ μοιχευθῇ, ἡ μοιχεύσῃ τις, ἐν ἑπτὰ ἔτεσι δοκεῖ αὐτὸν τοῦ τελείου τυχεῖν, κατὰ τοὺς βαθμοὺς τοὺς προάγοντας.*

^g Concil. Illiberit. c. lxix. (Labbé, vol. i. p. 977.) *Si quis forte habens uxorem, semel fuerit lapsus, placuit eum quinquennium agere de ea re poenitentiam.*

^h Ibid. c. lxiv. *Si qua mulier usque in finem mortis suæ cum alieno fuerit viro mœchata, placuit nec in fine dandam ei esse communionem. Si vero eum reliquerit, post decem annos [recipi ad] accipiat communionem acta legitima poenitentia.*

ⁱ Cyp. epist. lv. al. lii. ad Anton. p. 109. (p. 247, edit. Fell. Amstelod.) *Mœchis a nobis poenitentia conceditur et pax datur. . . Et quidem apud antecessores nostros, etc. Vide cap. x. § ii. sub litt. (f) p. 206.*

^k Pearson. Vindic. Ignat. lib. ii. c. viii. (apud Coteler. tom. ii. p. 378.) *Sed nec illud verum est, quod Albaspinæus observat. Ante ætatem Cypriani etiam mœchi ad poenitentiam admittebantur. Ita ipse testatur epistola lii. 'Et quidem apud antecessores nostros,' etc. Ab episcopis igitur Africanis per poenitentiam recepti sunt mœchi ante ætatem Cypriani, adeoque ante Novatianos. Idque ab ecclesia factum narrat Cyprianus; nullum igitur tunc temporis in ecclesia Africana decretum exstitit de adulteris penitus a poenitentia removendis, etc.*

communion. Yet in the case of the clergy, the law continued still a little more severe. For by a rule of the Council of Eliberis,¹ “If a bishop, presbyter, or deacon, was convicted of adultery, he was to be denied communion to the very last, as well for the greatness of the crime, as for the scandal he gave to the Church thereby.” And by another canon of the same council,^m “Every clergyman who knew his wife to be guilty of committing adultery, and did not presently put her away, was also to be denied communion to the very last: that they who ought to be examples of good conversation, might not by their practice seem to show others the way to sin.” And the Council of Neocæsareaⁿ has a decree of near affinity to this, “That if a layman’s wife be convicted of adultery, it shall render him incapable of orders: or if, after his ordination, she commits adultery, he must dismiss her, under pain of degradation from his ministerial office, if he retains her.” The civil law, both under the heathen and Christian emperors, made this crime capital, as Gothofred^o shows by various instances both out of the Code and Pandects. And Constans,

¹ Concil. Iliberit. c. xviii. (Labbé, vol. i. p. 973.) Episcopi, presbyteri, et diacones, si in ministerio positi detecti fuerint, quod sint mœchati, placuit, et propter scandalum et propter nefandum crimen, nec in fine eos communionem accipere debere.

^m Ibid. can. lxxv. Si cujus clerici uxor fuerit mœchata, et scierit eam maritus suus mœchari, et eam non statim projecerit, nec in fine accipiat communionem: ne ab his, qui exemplum bonæ conversationis esse debent, ab eis videantur magisteria scelerum procedere.

ⁿ Concil. Neocæsar. c. viii. (Labbé, vol. i. p. 1482.) Ἰνὴν τινος μοιχευθεῖσα λαϊκοῦ ὄντος, ἐὰν ἐλεγχθῇ φανερώς, ὁ τοιοῦτος εἰς ὑπηρεσίαν ἐλθεῖν οὐ δύναται. Ἐὰν δὲ καὶ μετὰ τὴν χειροτονίαν μοιχευθῇ, ὀφείλει ἀπολῦσαι αὐτήν. ἐὰν δὲ συζῇ, οὐ δύναται ἔχεισθαι τῆς ἐγγχειρισθείσης αὐτῇ ὑπηρεσίας.

^o Gothofred. in Codic. Theod. lib. xi. tit. xxxvi. (Lugdun. 1665. vol. iv. p. 297.) Quorum appellationes, etc. leg. iv. Quod poenæ ipsius atrocitatem attinet, magna profecto ea, quum culei et ignis poena h. l. imponatur. Certe et antea Opilius Macilius adulterii reos vivos simul incendit junctis corporibus, teste Capitolino. Et Constantius ipse vivicomburii poenam servo, qui rem cum domina habuisset, imposuit ‘sup. de mulierib. quæ se prop. serv.’ At enim neque hæc poena postea mansit: nam et sub Valentiniano Cethegus senator adulterii reus delatus cervice periit abscessa, ut testatur Am. Marcellinus, lib. xxviii. qui idem scribit eadem poena feminas aliquot itidem ob idem crimen affectas tum temporis. Et sub Majoriano relegationis tantum, vel ad summum deportationis poena cum bonorum confiscatione, jureque cædendi ejus si rediret, poena statuta.

the son of Constantine, in particular, appointed its punishment to be the same as that of parricide, which was burning alive ; or drowning in a sack with a serpent, an ape, a cock, and a dog, tied up with the criminals. " When adultery,"^p says he, " is proved by manifest evidence, no dilatory appeal shall be allowed ; but the judge is obliged to punish those who are guilty of the sacrilegious violation of marriage, as manifest parricides, either by drowning them in a 'culeus' or sack, or burning them alive." And this was one of those crimes to which the emperors at Easter would grant no indulgence,^q nor allow any appeal to be made from the judge to themselves in favour of the criminals, as appears not only from this law of Constantians, but several others.^r It may not be amiss also to observe out of one of the laws^s of Theodosius, " That for a Christian man or woman to marry a Jew, was reputed the same thing as committing adultery, and made the offending party liable to the same punishment ; because it was at least a spiritual adultery, and a sacrilegious prostitution of the members of Christ to the insolence and power of his greatest enemies." And indeed there is nothing that the ancients more generally^t

^p Cod. Theod. *ibid.* Manifestis probationibus adulterio probato, frustratoria provocatio minime admittatur : cum pari similique ratione sacrilegos nuptiarum, tamquam manifestos parricidas, insuere culeo vivos, vel exurere, judicantem oporteat.

^q Cod. Theod. lib. ix. tit. xxxviii. de Indulgentiis Criminum, leg. iii. iv. vi. vii. viii. cit. *supra* cap. iv. § ii. sub litt. (c) p. 2. Et cap. x. § i. sub litt. (a) p. 204.

^r Cod. Theod. lib. xi. tit. xxxvi. Quorum appellationes non recipiantur leg. i. vid. c. x. § i. sub litt. (b) p. 205.

^s Cod. Theod. lib. ix. tit. x. ad legem Julianam de adulteris, leg. v. Ne quis Christianam mulierem in matrimonium Judæus accipiat, neque Judææ Christianus conjugium sortiatur. Nam si quis aliquid hujusmodi admiseric, adulterii vicem commissi hujus crimen obtinebit.

^t Ambros. de Abrahamo, lib. i. c. ix. Cave, Christiane, gentili aut Judæo filiam tuam tradere : Cave, inquam, gentilem aut Judæam, atque alienigenam, hoc est, hæreticam et omnem alienam a fide tu uxorem accersas tibi.—Augustin. Epist. cccxxiv. (Bened. 1700. vol. ii. p. 668. F 2.) ad Rusticum. Si enim tu quam certissime noveris, etiam si nostræ absolutæ sit potestatis, quamlibet puellam in conjugium tradere, tradi a nobis Christianam nisi Christiano non posse : etc.—Conc. Illiberit. c. xvi. (Labbé, vol. i. p. 972.) Hæretici si se transferre noluerint ad ecclesiam catholicam, nec ipsis catholicas dandas esse puellas : sed neque Judæis, neque-hæreticis [ethnicis] dare placuit ; eo quod

condemn than this of Christians joining in marriage with Jews, or heathens, or heretics, or any persons of a different religion; not because it was strictly and properly adultery, but because it was against the rule of the Apostle, (which orders women to 'marry only in the Lord,') and therefore dangerous to the faith, by running themselves into temptation of changing their religion, either by perverting and corrupting the faith, or wholly deserting and apostatizing from it.

SECT. III.—Of Incest.

Another sort of uncleanness was committed by incestuous marriages; that is, when persons of near alliance, either by consanguinity or affinity, made marriages one with another, within the degrees prohibited by God in Scripture. As if a man married his father's wife, or his wife's daughter, or his brother's wife, or his wife's sister; which are cases in affinity, particularly mentioned in the Council of Auxerre^u as prohibited cases. St. Basil^x says, "Incest with a sister was to be punished with the same penance as murder; and all incestuous conjunction as adultery."^y He that committed incest with an half-sister,^z was to do eleven years' penance; and he

nulla possit esse societas fidei cum infideli. Si contra interdictum fecerint parentes, abstinere(e) per quinquennium placet.—Concil. Laodic. c. x. (Labbé, vol. i. p. 1497.) Περὶ τοῦ, μὴ δεῖν τοὺς τῆς ἐκκλησίας ἀδιαφόρως πρὸς γάμου κοινωνίαν συνάπτειν τὰ ἐαυτῶν παῖδια αἱρετικοῖς.—Can. xxxi. (p. 1501.) "Ὅτι οὐ δεῖ πρὸς πάντας αἱρετικοὺς ἐπιγαμίας ποιεῖν, ἢ διδόναι υἱοὺς, ἢ θυγατέρας· ἀλλὰ μᾶλλον λαμβάνειν, εἴγε ἐπαγγέλλονται Χριστιανοὶ γίνεσθαι.

^u Concil. Antissiodor. can. xxvii. (Labbé, vol. v. p. 960.) Non licet, ut aliquis suam novercam accipiat uxorem.—Can. xxviii. Non licet, ut filiam uxoris suae quis accipiat.—Can. xxix. Non licet, ut relictam fratris sui quis in matrimonium ducat.—Can. xxx. Non licet duas sorores, si una mortua fuerit, alteram in conjugium accipere.

^x Basil. can. lxvii. (Labbé, vol. ii. p. 1352.) 'Ἀδελφομιξία τὸν τοῦ φονέως χρόνον ἐξομολογήσεται.

^y Ibid. can. lxviii. (Labbé, vol. ii. p. 1752.) Ἡ τῆς ἀπειρημένης συγγενείας εἰς γάμον ἀνθρώπων σύστασις, εἰ φωραθῇ, ὡς ἐν ἀμαρτήμασιν ἀνθρώπων γινόμενη, τὰ τῶν μοιχῶν ἐπιτίμια δεῖξεται.

^z Ibid. can. lxxv. (Labbé, vol. ii. p. 1753.) Ὁ ἀδελφῇ ἰδίᾳ ἐκ πατέρος ἢ ἐκ μητέρος συμμιανθῆς, εἰς οἶκον προσευχῆς μὴ ἐπιτρεπθῶ παρεῖναι, ἕως ἀν ἀποστῇ τῆς παρανόμου καὶ ἀθεμίτου πράξεως. μετὰ δὲ τὸ ἐλθεῖν εἰς συναίσθησιν τῆς φοβερᾶς ἀμαρτίας, τριετίαν προσκλαίτω, τῇ θύρᾳ τῶν εὐκτηρίων οἴκων παρσηκῶς, καὶ δεόμενος τοῦ λαοῦ εἰσιόντος ἐπὶ τὴν προσευχὴν, ὥστε

who committed incest with his son's wife^a was to do the same.—He who successively married two sisters,^b was to do the penance of an adulterer, which was fifteen years.—And about all cases of this nature, the ancients were perfectly agreed. Herein especially the Christian morals exceeded the heathen. Among the Persians, it was allowed by law for the father to marry his own daughter, or a son his own mother or sister, as is observed by Origen ;^c Minutius^d says the same of the Egyptians and Athenians ; and Theodosius, speaking particularly of the Persians in his own time,^e says, “ It was then a mark of honour and religion for their princes to marry their own mothers, or sisters, or daughters.” And Gothofred^f gives

ἕκαστον μετὰ συμπαθείας ὑπὲρ αὐτοῦ ἐκτενεῖς ποιῆσθαι πρὸς Κύριον τὰς δεήσεις. μετὰ δὲ τοῦτο ἄλλην τριετίαν εἰς ἀκρόασιν μόνην παραδεχθήτω, καὶ ἀκούων τῆς γραφῆς καὶ τῆς διδασκαλίας ἐκβαλλέσθω, καὶ μὴ καταξιούσθω προσευχῆς. ἔπειτα εἴπερ μετὰ δακρύων ἐξεζήτησεν αὐτήν, καὶ προσέειπε τῷ Κυρίῳ μετὰ συντριμμοῦ καρδίας καὶ ταπεινώσεως ἰσχυρᾶς, διδόνθω αὐτῷ ὑπόπτως ἐν ἄλλοις τρισὶν ἔτεσι· καὶ οὕτως ἐπειδὴν τοὺς καρποὺς τῆς μετανοίας ἀξίους ἐπιδείξεται, τῷ δεκάτῳ ἔτει εἰς τὴν τῶν πιστῶν εὐχὴν δεχθήτω, χωρὶς προσφορᾶς· καὶ δύο ἔτη συστὰς εἰς τὴν εὐχὴν τοῖς πιστοῖς, οὕτω λοιπὸν καταξιούσθω τῆς τοῦ ἀγαθοῦ κοινωνίας.

^a Ibid. can. lxxvi. (Labbé, vol. ii. p. 1753.) ‘Ο αὐτὸς τύπος καὶ περὶ τῶν τὰς νόμφας ἑαυτῶν λαμβανόντων.

^b Basil. can. lxxviii. (collat. cum can. lxxvii.) ‘Ο αὐτὸς κρατεῖτω τύπος καὶ ἐπὶ τῶν δύο ἀδελφὰς λαμβανόντων εἰς συνοικέσιον, εἰ καὶ κατὰ διαφόρους χρόνους. (ii. 1753.)

^c Origen. contr. Celsum, lib. v. p. 248. Οἱ Περσῶν [νόμοι], μὴ κωλύοντες γαμεῖσθαι τοῖς παισὶ τὰς μητέρας, μηδὲ ὑπὸ τῶν πατέρων τὰς ἑαυτῶν θυγατέρας.

^d Minut. Octav. p. 92. (p. 118, edit. Hall.) Jus est apud Persas misceri cum matribus : Ægyptiis et Athenis cum sororibus legitima connubia.

^e Theodoret. Comment. in Levit. xviii. 8. (Hal. 1769. vol. i. p. 205.) ‘Οτι δὲ πολλὰ τοιαῦτα τολμᾶται, μαρτυροῦσι καὶ Πέρσαι μέχρι τοῦ παρόντος, οὐ μόνον ἀδελφαῖς, ἀλλὰ καὶ μητράσι καὶ θυγατράσι νόμφ γάμου μιγνύμενοι.

^f Gothofred. in Cod. Theod. lib. iii. tit. xii. de incestis Nuptiis, leg. i. (Lugdun. 1665. vol. i. p. 294.) ex Tacito lib. xii. Annal. Sueton. vit. Claud. xxvi. vit. Domit. c. xxii. Quum et antiquissimo jure, non minus fratris, quam sororis filiam uxorem ducere nefas esset, postea tamen discrimen inductum fuit, inter fratris filiam et sororis filiam, videlicet ut illam patruo ducere liceret, hanc avunculo non liceret. Quod quidem Claudius imperator, Agrippinæ amore correptus, primus impettravit, quo scilicet justæ inter patres fratrumque filias nuptiæ in posterum SC. statuerentur, quæ ad id tempus incestæ habebantur, ut Tacitus (lib. xii. Annalium,) et Suetonius (in vita Claudii, c. xxvi.) diserte testantur. Hoc exemplo postea Domitiano fratris Titi filia in matrimonium oblata fuit, ut idem Suetonius in ejus vita scribit, c. xxii. Verum paulo post hoc discrimen, jure

many instances among the Romans of men marrying their sisters' daughters, and their brothers' daughters; the latter of which was never forbidden by any of their laws, though the former had sometimes a restraint laid upon it. But Constantius^s made it a capital crime for any one to marry his brother's or sister's daughter, which was abominable. He equally condemned the marrying of two^b sisters, or a brother's wife, (though the Jewish law allowed the latter in a certain case) under the penalty of having their children illegitimate, and accounted spurious. And Theodosius Juniorⁱ thought it proper to repeat the same law, though Honorius himself had made a stretch upon it, by marrying two sisters, the daughters of Stilicho, successively the one after the other. The ecclesiastical law dissolved all such marriages, as incestuous, and obliged the parties to do penance for their lewdness. The Council of Eliberis^k requires five years' penance, unless some intervening danger of death require the time to be shortened. The Council of Neocæsarea^l orders the woman that is married to two brothers, to remain excommunicate to the day of her

veteri restituto, sublatum fuit; Nerva quippe mox sanxit, μή ἀδελφιδὴν γαμεῖν, quod Xiphilinus ex Dione notat: ἀδελφιδὴν, id est, non tantum sororis, sed et fratris filiam, ne ducere jus esset.

^s Cod. Theod. ibid. (Lugdun. 1665. vol. i. p. 294.) Si quis filiam fratris sororisve faciendam crediderit abominanter uxorem, aut in ejus amplexum, non ut patruus sed avunculus, convolaverit, capitalis sententiæ poena teneatur.

^b Cod. Theodos. lib. iii. tit. xii. de incestis Nuptiis, leg. ii. (Lugdun. 1665. vol. i. p. 296.) Etsi licitum veteres crediderunt, nuptiis fratris solutis, ducere fratris uxorem; licitum etiam, post mortem mulieris, vel divortium, contrahere cum ejusdem sorore conjugium: abstineant hujusmodi nuptiis universi, nec æstiment, posse legitimos liberos ex hoc consortio procreari: nam spurios esse convenit, qui nascuntur.

ⁱ Ibid. leg. iv. (Lugdun. 1665. vol. i. p. 300.) Tamquam incestum commiserit, habeatur, qui post prioris conjugis amissionem, sororem ejus in matrimonium proprium crediderit sortiendam. Pari ac simili ratione etiam, si qua post interitum mariti in germani ejus nuptias crediderit adspirandum. Illo sine dubio insecuturo, quod ex hoc contubernio nec filii legitimi habebuntur, nec in sacris patris erunt, nec paternam ut sui suscipient hæreditatem.

^k Concil. Illiberit. c. lxi. (Labbé, vol. i. p. 977.) Si quis, post obitum uxoris suæ, sororem ejus duxerit, quinquennium a communione placuit abstinere, nisi forte dari pacem velocius necessitas coëgerit infirmitatis.

^l Conc. Neocæsar. can. ii. (Labbé, vol. i. p. 1481.) Γυνή ἰὰν γήμηται δύο ἀδελφοῖς, ἐξωθείσθω μέχρι θανάτου· πλὴν ἐν θανάτῳ, διὰ τὴν φιλανθρωπίαν, εἰπούσα ὡς ὑγιάνασα [ὑγιαίνουσα] λύσει τὸν γάμον, ἔξει τὴν μετάνοιαν.

death; and then only to be reconciled by receiving the sacrament in extremity, upon condition, that if she recovers, she shall dissolve the marriage, and submit to a course of solemn repentance. St. Basil argues at large^m for the nullity and dissolution of all such marriages, in an epistle to Diodorus Tarsensis, under whose name there went a feigned treatise in defence of them. And among the Apostolical Canonsⁿ there is one that orders; that whoever marries two sisters, or his brother's daughter, shall never be admitted among the clergy.

SECT. IV.—*Whether the Marriage of Cousin-germans was reckoned Incest.*

But they are not so clear and unanimous in the question about the marriage of cousin-germans. Till the time of St. Ambrose and Theodosius, there was no law against it, but Theodosius by an express law absolutely forbad it. This law is not extant now in either of the codes, but there is reference made to it by many ancient writers. Honorius, in one of his laws, makes^o mention of it, confirming the prohibition, though under a different penalty. For whereas Theodosius made the penalty to be confiscation and burning, he moderated the punishment into confiscation of the parties' goods, and illegitimation of their children. And Arcadius by another law^p took off confiscation also; but made all such still guilty of incestuous marriage, and rendered them intestate, and their children illegitimate, and incapable of succeeding to any inheritance, as

^m Basil. Epist. cxvii. ad Diodor. Tarsens. tot. (Labbé, vol. ii. p. 1760.)

ⁿ Can. Apost. xviii. 'Ο δύο ἀδελφᾶς ἀγαγόμενος, ἡ ἀδελφιδὴν, οὐ δύναται εἶναι κληρικός. (Labbé, vol. i. p. 29.)

^o Cod. Theod. lib. iii. tit. x. Si nuptiæ ex rescripto petantur, leg. i. (Lugdun. 1665. vol. i. p. 287.) Exceptis his, quos consobrinorum, hoc est, quarti gradus conjunctionum, lex triumphalis memoriæ patris nostri exemplo indultorum supplicare non vetavit, etc.

^p Cod. Theod. lib. iii. tit. xii. de incestis Nuptiis, leg. iii. (Lugdun. 1665. vol. i. p. 297.) Manente circa eos sententia, qui post latam dudum legem quoquo modo absoluti sunt aut puniti, si quis incestis posthac consobrinæ suæ, vel sororis aut fratris filiæ uxorisve . . . sese nuptiis funestarit, designato quidem lege supplicio, (hoc est, ignium et proscriptionis,) careat, proprias etiam quamdiu vixerit, teneat facultates: sed neque uxorem neque filios ex ea editos habere credatur, ut nihil prorsus prædictis, ne per interpositam quidem personam, vel donet superstes, vel mortuus derelinquat.

being only a spurious offspring. Gothofred^q has observed likewise, “that there is mention made of this law of Theodosius in the writings of Libanius, who speaks of it as a new law made by him, to forbid the marriage of ἀνεψιοί, that is, cousin-germans.” The like is said by St. Ambrose,^s who takes notice of the severe punishment, which the emperor laid upon all those that married in contradiction to the law. And it is thought that St. Ambrose was the emperor’s adviser in the case, being of opinion himself that such marriages were incestuous and prohibited in Scripture. St. Austin was of a different judgment from St. Ambrose, yet he mentions the emperor’s law, and advises men to refrain from such marriages; ^t ‘because though neither the divine law, nor any human law before that of Theodosius, had prohibited them, yet most men were scrupulous about them, and such marriages were very rarely made, because men thought they bordered very near upon unlawful; whilst the marrying a cousin-german was almost deemed the same thing as marrying a sister, and the propinquity of blood gave men a sort of natural aversion to such engagements with their near kindred.’ It appears from this, that there was no

^q Gothofred. in Cod. Theod. lib. iii. tit. x. leg. i. (Lugdun. 1665. vol. i. p. 288.) Antiquissimus et coetaneus quidem scriptor occurrit Libanius, orator Antiochenus, oratione, quam nos primi edidimus, ὑπὲρ τῶν γεωργῶν περὶ τῶν ἀγγαρειῶν, quamque is ad ipsummet Theodosium scripsit: ibi post exempla anterioris cujusdam Imperatoris, immo et post alterum ipsiusmet Theodosii exemplum, quibus illi veteris consuetudinis morisque recepti ratione insuper habita, leges nihilominus salutare tulere, subjicit. Μὴ δὲ ἐσωσαν ἀνεψιῶν γάμοι γέγραπας, ἐν ἐξουσίᾳ πολλῇ τοῦ πράγματος ὄντος, καὶ τῶν φαινομένων δικαίων οὐκ ἦν ὁ τοῦ ἔργου χρόνος δυνατώτερος.

^r Liban. Orat. pro agricolis de angariis. Vid. sub litt. antec. (q).

^s Ambros. Epist. lxvi. ad Paternum. Theodosius imperator etiam patruelus fratres et consobrinos vetuit inter se conjugii convenire nomine, et severissimam poenam statuit, si quis temerare ausus esset fratrum pia pignora.

^t Augustin. de Civit. Dei, lib. xv. c. xvi. (Bened. 1700. vol. vii. p. 302. A 5.) Experti sumus in connubiis consobrinarum etiam nostris temporibus propter gradum propinquitatis fraterno gradui proximum, quam raro per mores fiebat, quod fieri per leges licebat; quia id nec divina prohibuit, et nondum prohibuerat lex humana. Verumtamen factum etiam licitum, propter vicinitatem horrebatur illiciti; et quod fiebat cum consobrina, pæne cum sorore fieri videbatur: quia et ipsi inter se propter tam propinquam consanguinitatem fratres vocantur, et pæne germani sunt. . . . Verum quis dubitet honestius hoc tempore etiam consobrinorum prohibita esse conjugia?

human law before that of Theodosius, to prohibit this sort of marriages; and in St. Austin's opinion, there was nothing to hinder them in the law of God. Athanasius^u was of the same judgment; for he says expressly, "That by the rule of God's commands, the conjunction of cousin-germans, or brothers' and sisters' children in matrimony, was lawful marriage." And afterward Arcadius revoked all former laws that he himself or others had made in derogation of such marriages,^z declaring them legal, and that no action or accusation should lie against them; but that if cousin-germans married together, whether they were the children of two brothers, or two sisters, or a sister and a brother, their matrimony should be lawful, and their children legitimate. Justinian made this the standing law of the empire, not only by inserting it into his code, but by declaring the same thing^y in his Institutions. Where Contius^z rightly observes, "That though some copies and some ancient writers, as Theophilus and others, read it negatively, 'conjungi non possunt;' yet the other is certainly the true reading, both because it is agreeable to the law of Arcadius in the code, and because Gregory the Great so alleges it in his answer to Austin the monk^a upon this question, saying, The civil law of the Roman empire allows the marriage of cousin-germans, but the sacred law forbids it." And this was now the known difference between the civil and ecclesiastical law. For though

^u Athanas. Synops. Scriptor. lib. Numeror. tom. ii. p. 70. A 5. (p. 137, edit. Paris. 1698.) 'Ὅδε λαμβάνουσι κληρον αἱ θυγατέρες Σαλπαδὲ, τὸν τοῦ πατρὸς ἐαυτῶν· καὶ ἐκ τῆς προφάσεως αὐτῶν γίνεται πρόσταγμα Κυρίου καὶ νόμος, νόμιμον εἶναι γάμον, τὴν πρὸς ἀνεψιὺς συζυγίαν.

^z Cod. Justin. lib. v. tit. iv. de Nuptiis, leg. xix. Celebrandis inter consobrinos matrimonii licentia legis hujus salubritate indulta est; ut revocata prisci juris auctoritate, restinctisque calumniarum fomentis, matrimonium inter consobrinos habeatur legitimum: sive ex duobus fratribus, sive ex duabus sororibus, sive ex fratre et sorore nati sunt: et ex eo matrimonio editi, legitimi, et suis patribus successores habeantur. (Amstel. 1663. p. 149.)

^y Justin. Instit. lib. i. tit. x. Duorum fratrum vel sororum liberi, vel fratris et sororis conjungi possunt.

^z Contius in locum.

^a Gregor. lib. xii. epist. xxxi. et ap. Bedam, lib. i. c. xxvii. Quaedam terrena lex in Romana republica permittit, ut sive frater et soror (leg. fratris et sororis) seu duorum fratrum germanorum, vel duarum sororum filius et filia misceantur. Sed sacra lex prohibet, etc.

Zepper^b alleges the Council of Epone and the second of Tours, as allowing such marriages, yet he plainly mistakes in both. For the Council of Epone^c expressly styles them incest and adultery, ranking them with marriages contracted with a sister, or the relict of a brother, or a father's wife. And the Council of Tours^d is as plain in the matter, quoting the foresaid canon of Epone, and another of the Council of Arvern or Clermont against them. Gregory II. made a like decree^e in a council at Rome, an. 721; and in the following ages, the prohibition extended to the sixth or seventh^f generation. The short of the whole matter is this: before the time of Theodosius there was no law, ecclesiastical or civil, to prohibit the marriage of cousin-germans: under the reign of Theodosius they were forbidden, but allowed again in the next reign, and under Justinian, who fixed the allowance in the body of his laws. But still the canons continued the prohibition, and extended it to a greater degree. But as this was not the original constitution, nor the practice of the Church for some ages, to bring such marriages under penitential discipline, as incestuous or simply unlawful; so I have not here laid this load upon them, but given the fair account of men's sentiments on both sides, and the different practices both of Church and state in several ages; acting the part of an historian, but not inducing the reader to condemn what was once allowed by the general vote of the Catholic Church, however differently represented in later ages.

^b Zepper. leg. Mosaicar. forens. explanat. lib. iv. c. xix. p. 506. Consentiant his vetusta ecclesie concilia. In Epaoensi enim concilio, circa annum Christi ccccxvii. habito, refertur, 'quod ultra consobrinus non progrediatur edictum.' Quod idem in Turonico II. statuitur concilio.

^c Conc. Epao. c. xxx. (Labbé, vol. iv. p. 1579.) Incestis conjunctionibus nihil prorsus veniæ reservamus, nisi quum adulterium separatione sanaverint; . . . Si quis novercam duxerit, si quis consobrinæ se societ.

^d Conc. Turon. II. c. xxii. (Labbé, vol. v. p. 872.) Quisquis aut sororem-is, aut [*fratris*] filiam, aut certe gradu consobrinam, aut fratris uxorem, sceleratis sibi nuptiis junxerit, huic pœnæ subjaceat, etc.

^e Concil. Roman. c. viii. Si quis consobrinam duxerit in conjugium, anathema sit. (Labbé, vol. vi. p. 1457.)

^f Vide Gratian. caus. xxxv. quæst. v. tot.

SECT. V.—*Of Polygamy and Concubinage.*

The next question may be about polygamy, which denotes either having many wives at once, or many successively one after another. As to the former, Socrates^s tells a very strange story of the emperor Valentinian; that by the advice of his wife Severa he married a second wife, while she was living; and upon that made a law to grant liberty to all that would, to have two wives at the same time. The author of the book, called ‘Polygamia Triumphatrix,’ makes a great stir with this pretended law in favour of polygamy; which in all probability is a mere fabulous story, which Socrates too hastily took up from the relation of some crafty impostor. For there is no footstep of any such law in either of the codes, but much to the contrary. For even the heathen law^h forbade it to the old Romans, as is evident from an edict of Diocletian in the Justinian Code, where he says, “No Roman was allowed to have two wives at once, but was liable to be punished before a competent judge.” And the Christian lawⁱ forbade the Jews also to have two wives at once, according to the allowance of their own law. Sallust^k says the Romans were used to deride

^s Socrat. lib. iv. c. xxxi. (Vales. Amstel. 1695. p. 204. D 2.) ‘Ὡς οὖν ἶδεν αὐτὴν λοουμένην τὴν Ἰουστίναν ἢ Σεήρα, ἡράσθη τοῦ κάλλους τῆς παρθένου· καὶ πρὸς τὸν βασιλεῖα διεξέειπε περὶ αὐτῆς, ὡς οὕτως εἶη θανατοῦν ἐχουσα κάλλος, ἢ παρθένος, ἢ τοῦ Ἰούστου θυγάτηρ, ὡς καὶ αὐτὴν, καίτοι γυναῖκα οὔσαν, ἐρασθῆναι τῆς εὐφορίας αὐτῆς· ὁ δὲ βασιλεὺς ταμεινόμενος τὸν τῆς γυναίκας λόγον, ἀγαγέσθαι τὴν Ἰουστίναν ἐβουλεύσατο, μὴ ἐκβαλὼν τὴν Σεήραν, ἀφ’ ἧς αὐτῷ Γρατιανὸς ἐγεγόνει, ὃν μικρὸν ἔμπροσθεν ἀνηγορεύκει βασιλεῖα· νόμον οὖν ὑπαγορεύσας, δημοσίᾳ προτίθησι κατὰ πόλεις, ὥστε ἐξεῖναι τῷ βουλομένῳ δύο νομίμους ἔχειν γυναῖκας· καὶ ὁ μὲν νόμος προέκειτο· ὁ δὲ ἄγεται τὴν Ἰουστίναν, ἀφ’ ἧς αὐτῷ γίνεται Οὐαλεντινιανὸς τε ὁ νέος, καὶ θυγατέρες τρεῖς, Ἰούστα, Γράτα, Γάλλα.

^h Cod. Justin. lib. v. tit. v. de incestis Nuptiis, leg. ii. Neminem qui sub ditione sit Romani nominis, binas uxores habere posse, vulgo patet: quum etiam in edicto prætoris hujusmodi viri infamia notati sint. Quam rem competens judex inultum esse non patietur. (Amstel. 1663. p. 151.)

ⁱ Ibid. lib. i. tit. ix. de Judæis, leg. vii. Nemo Judæorum morem suum in conjunctionibus retineat, nec juxta legem suam nuptias sortiatur, nec in diversa sub uno tempore conjugia conveniat. (p. 36.)

^k Sallust. de bello Jugurth. (Lips. 1812. Kunhardt, p. 170.) Etiam antea Jugurthæ filia Bocchi nupserat. Verum ea necessitudo apud Numidas Maurosque levis ducitur: quod singuli, pro opibus quisque, quam plurimas uxores,

polygamy in the barbarians. And though Julius Caesar¹ attempted to have a law passed in favour of it, he could not effect it. And Plutarch remarks,^m “that Mark Antony was the first that had two wives among the Romans.” But that which is most decisive, is, that neither Zosimus, nor Ammianus Marcellinus, the heathen historians, object any such thing to Valentinian; which they would not have failed to have done, had he taken or granted any such liberty contrary to the laws of the Romans before him; but on the other hand, Ammianus Marcellinus says expresslyⁿ of him, “That he was remarkable for his chastity both at home and abroad, and had no contagion of obscenity upon his conscience; by which means he was able to bridle the petulancy of the imperial court, and keep it in good order.” And Zosimus^o rather intimates, that he did not marry his second wife Justina, till Severa his first was dead. Whence Baronius^p and Valesius^q rightly conclude,

denas alii, alii plures habent; sed reges eo amplius. Ita animus multitudine distrahitur; nulla pro socia obtinet: pariter omnes viles sunt.

¹ Sueton. vita Jul. Caesar. c. lii. Helvius Cinna, trib. pleb., plerisque confessus est, habuisse se scriptam paratamque legem, quam Caesar ferre jussisset, quum ipse abesset, uti uxores, liberorum quærendorum causa, quas et quot vellet, ducere liceret. (Wolfii, Lips. 1802. vol. i. p. 71.)

^m Plutarch. vit. Anton. in fin. (p. 957, edit. Francof. 1620.) Ἀντώνιος δὲ πρῶτον μὲν ὁμοῦ δύο γυναῖκας ἡγάγετο, πρᾶγμα μηδενὶ Ῥωμαίῳ τετολημμένον.

ⁿ Ammian. Histor. lib. xxx. p. 462. Omni pudicitiae cultu, domi castus et foris, nullo conscientiae contagio violatus obscenae: hancque ob causam tamquam retinaculis petulantiam aulae regalis refrænarat, quod custodire facile poterit.

^o Zosim. Histor. lib. iv. cap. xliii. (p. 457, edit. Ciz. 1679.) Τότε δὴ νεὼς ἐπιβάς, ἐπὶ τὴν Θεσσαλονίκην ἀπῆρε· συναπέπλει δὲ αὐτῷ καὶ ἡ μήτηρ Ἰουστίνα, Μαγνηνίῳ μὲν [ὡς εἰρηταί μοι πρότερον] συνοικήσασα, μετὰ δὲ τὴν ἐκείνου καθαιρεσιν, Οὐαλεντινιανῶ τῷ βασιλεῖ διὰ κάλλους ὑπερβολὴν συναφθίσα.

^p Baron. an. cccclxx. num. cxxv. tom. iv. p. 272. (p. 294, edit. Antwerp. 1654.) (Antwerp. 1601. vol. iv. p. 271.) Convincitur ex pluribus, apertissimis mendaciis anilem vel ab eo concinnatam esse fabellam, vel potius ipsum ab aliquo e trivio acceptum ut verum, conscripsisse commentum. Unde, quæso, Socrati, Justinam fuisse virginem, quum eam Valentinianus accepit in conjugem, quam constat uxorem fuisse Magnentii tyranni? testatur id quidem inter hujus temporis scriptores Zosimus: qui certe quo non pretio redemisset, ut in Christianum Imperatorem proxime succedentem post Julianum, quem in odium Christianae religionis adeo celebrat, potuisset tantum facinus exprobrare? Et quid dicemus de Ammiano aequè gentili, et in Christianos principes parum æquo, qui tamen nihil adeo celebrat in Valentiniano atque commendat ac castitatem? sed ejus verba red-

that this story in Socrates must needs be a mere groundless fiction, and that there never was any law to authorize polygamy in the Roman empire. As to the laws of the Church, St. Basil^r observes, "that the fathers said little or nothing of polygamy, as being a brutish vice, to which mankind had no very great propensity." But he determines it to be a greater sin than fornication, and consequently it ought to have a longer course of penance assigned it: for fornication was to have seven years' punishment by St. Basil's rules, and yet the term of penance for polygamy in this canon is only four years: which makes learned men suspect, that this part of the canon is corrupted by the negligence of transcribers; and that St. Basil originally assigned a longer term of penance for this sin, than appears from any copies now extant, which only requires one year's penance in the quality of mourners, and three years in the class of co-standers, without any mention of their being hearers or prostrators, which are usually specified in most other canons of this author. In the first Council of Toledo^a there is also a rule, 'which accounts it the same thing as polygamy for a man to have a wife and a concubine together: for such an one may not communicate. But if he have no wife,

damus: Omni pudicitiae cultu, etc. [vid. sub litt. (n)] Appello nunc rectum eruditorum omnium sanumque judicium: potuissentne hæc de Christiano principe a scriptoribus in Christianam religionem infensis adeo prædicari, si Valentinianus fuisset publica illa obscenitate pollutus, quam scimus a Romanarum historicis in barbaris esse derisam, et in Romano imperatore id tentante magnopere improbatam?

^a Vales. in Socrat. lib. iv. c. xxxi. (Amstel. 1695. p. 41.) Hujus legis Valentiniani nulla usquam fit mentio. Sed nec Ammianus Marcellinus, qui res Valentiniani accurate commemoravit, hujus legis meminit in suis libris. Certe hujusmodi lex nequaquam convenire mihi videtur Valentiniano, principi serio et Christiano. Tota igitur hæc narratio de Justinæ conjugio dubiæ fidei mihi videtur.

^r Basil. can. lxxx. (Labbé, vol. ii. p. 1756.) Τὴν πολυγαμίαν οἱ πατέρες ἀπειρώπησαν, ὡς κτηνώδη, καὶ παντελῶς ἀλλοτρίαν τοῦ γένους τῶν ἀνθρώπων· ἡμῖν δὲ καρίοταται πλέον τι πορνείας εἶναι τὸ ἀμάρτημα· διὸ εὐλογον τοὺς τοιούτους ὑποβάλλεσθαι τοῖς κανόσι· δηλονότι ἐναντὶν προσκλαύσαντες, καὶ ἐν τρισὶν ὑποπεσόντας, οὕτω δεκτοὺς εἶναι.

^s Concil. Toletan. I. c. xvii. (Labbé, vol. ii. p. 1226.) Si quis habens uxorem fidelis-em, si concubinam habeat, non communicet. Ceterum, qui non habet uxorem, et pro uxore concubinam habet, a communione non repellatur; tantum ut unus mulieris, aut uxoris aut concubinæ, (ut ei placuerit,) sit conjunctione contentus.

but only a concubine instead of a wife, he may not be repelled from the communion; provided he be content to be joined to one woman only, whether wife or concubine, as he pleases.' The difficulty which seems to be in the latter part of this canon, I have been at some pains to explain¹ in a former book; where I show that, in the sense of the ecclesiastical law, a concubine differs nothing from a wife; though the civil law made a greater distinction between them; calling her only a concubine, who was married against any of the rules which the laws of the state prescribed, and denying her the privileges, rights, and honours, which belonged to a legal wife: for she could claim no right from her husband's estate, nor her children succeed to his inheritance: yet she was not reputed guilty of fornication, nor the husband accounted an adulterer in the eye of the Church; because they kept themselves together faithfully and entirely to each other by an exact performance of the mutual contract made between them. Which was the reason why the Church allowed such a man to communicate, who was united to a concubine (in the foresaid sense) instead of a wife; but reckoned him guilty of polygamy, who kept a concubine and a wife together.

SECT. VI.—*Of marrying after unlawful Divorce.*

Another sort of polygamy was, the marrying of a second wife after the unlawful divorcement of a former. For this, in effect, was reputed the same as having two wives at once. There were some cases in which a man might lawfully put away his wife, without any transgression against the rules of the Church or state, or violation of any law human or divine. The civil law allowed it in many cases. Constantine specifies² three cases, in which a man was at liberty to put away his wife, or a woman her husband. A woman might not di-

¹ Lib. xi. cap. v. § xi. volum. iii. p. 497.

² Cod. Theodos. lib. iii. titul. xvi. leg. i. (Lugdun. 1675. vol. i. p. 310.) *Placet mulieri non licere propter suas pravas cupiditates marito repudium mittere, exquisita causa, velut ebrioso, aut aleatori, aut mulierculario: nec vero maritis per quasumque occasiones uxores suas dimittere. Sed in repudio mittendo a femina hæc sola crimina inquiri, si homicidam, vel medicamentarium, vel sepulchrorum dissolutorem, maritum suum esse probaverit, ut ita demum laudata omnem suam dotem recipiat: nam si præter hæc tria crimina repudium marito*

voiced herself from her husband at pleasure for any ordinary cause, as, because he was a drunkard, or a gamester, or given to women; but only for these three crimes, if he was a murderer, or a poisoner, or a robber of graves: if otherwise, she was to forfeit all her title to his substance, and be sent into banishment. In like manner, the husband was not to put away his wife, but only for the three crimes of adultery, poisoning, and the practice of bawdery. If otherwise, the woman might claim her own portion, and the man was incapacitated to marry again. The following emperors^u allowed many other causes of lawful divorce, as, if an husband was an adulterer, or a murderer, or a poisoner, or guilty of treason against his prince, or a perjured person, or a plunderer of graves, or robber of churches, or a highwayman, or harbourer of such, a stealer of cattle, or a man-stealer, or one frequenting the company of lewd women (which extremely exasperates a chaste wife), if he attempted her life by poison, or the sword, or any the like means; if he beat her as a slave, contrary to the rules of using free-born women; in any of these cases, she had liberty to use the necessary help of a divorce, making proof of the cause before a competent judge. And the same liberty was allowed the man against his wife upon these and the like reasons. But the ecclesiastical laws were much stricter, and admitted of divorces only in case of

miserit, oportet eam usque ad aculeam capitis in domo mariti deponere, et pro tam magna sui confidentia in insulam deportari. In masculis etiam, si repudium mittant, hæc tria crimina inquiren conveniet, si mœcham, vel medicamentariam, vel conciliatricem, repudiare voluerit: nam si ab iis criminibus liberam ejecerit, omnem dotem restituere debet, et aliam non ducere. Quod si fecerit, priori conjugii facultas dabitur ejus domum invadere, et omnem dotem posterioris uxoris ad semetipsam transferre pro injuria sibi inlata.

^u Cod. Justin. lib. v. tit. xvi. leg. viii. Theodos. et Valent. (Amstel. 1663. p. 162.) *Si qua maritum suum adulterum, aut homicidam, aut veneficum, vel certe contra nostrum imperium aliquid molientem, vel falsitatis crimine condemnatum invenerit, si sepulchrorum dissolutorem, si sacris ædibus aliquid subtrahentem, si latronem, vel latronum susceptorem, vel abactorem, aut plagiarium, vel ad contentum [sui] domusve suæ ipsa inspiciente cum impudicis mulieribus, (quod maxime etiam castas exasperat) cœtum ineuntem; si suæ vitæ veneno, aut gladio, aut alio simili modo insidiantem; si se verberibus, (quæ ingenuis aliena sunt) adficiantem probaverit; tunc repudii auxilio uti necessario permitimus libertatem, et causas dissidii legibus comprobare. See also Justin. Novell. xxii. c. iii. Novell. cxvii. c. viii. et cod. de Repudiis, leg. x. et xi.*

adultery, and malicious desertion. In the case of adultery, women as well as men were allowed to divorce themselves from the offending party, as appears from the case related by Justin Martyr,^x and out of him by Eusebius,^y and several places of St. Austin.^z And some canons oblige the clergy^a to dismiss their adulterous wives, under pain of ecclesiastical censure; whilst St. Austin pleads with the laity,^b rather to be reconciled to an adulterous wife upon her repentance, than dismiss her entirely, because of many great inconveniences that might attend it. One of which was, that he thought the Scripture forbade both man and woman to marry again, even after a lawful divorce, till one of the parties was dead. But he does not so dogmatically assert this as to make marrying after such a lawful divorce to be a crime worthy of excommunication. For in another book, where he treats of the qualifications of baptism,^c he says, “A man who puts away his wife for adultery,

^x Justin. Apol. ii. p. 41, 42. *Γυνή τις συνεβίου ἀνδρὶ ἀκολασταίνοντι, ἀκολασταίνουσα καὶ αὐτὴ πρότερον· ἐπεὶ δὲ τὰ τοῦ Χριστοῦ διδάγματα ἔγνω αὕτη, ἐσωφρονίσθη, καὶ τὸν ἄνδρα ὁμοίως σωφρονεῖν πείθειν ἐπειράτο, διδάγματα ἀναφέρουσα, τὴν τε μέλλουσαν τοῖς οὐ σωφρόνως καὶ μετὰ λόγου ὁρθοῦ βιοῦσιν ἔσεσθαι ἐν αἰωνίῳ πυρὶ κόλασιν ἀπαγγέλλουσα. ὁ δὲ ταῖς αὐταῖς ἀσελγείαις ἐπιμένων, ἀλλοτρίαν διὰ τῶν πράξεων ἐποιεῖτο τὴν γαμετήν. ἀσεβὲς γὰρ ἡγουμένη τὸ λοιπὸν ἢ γυνὴ συγκατακλίνεσθαι ἀνδρὶ παρὰ τὸν τῆς φύσεως νόμον καὶ παρὰ τὸ δίκαιον πόρους ἡδονῆς ἐκ παντὸς πειρωμένη ποιεῖσθαι, τῆς συζυγίας χωρισθῆναι ἐβουλήθη. καὶ ἐπεὶ ἐξεδυσωπείτο ὑπὸ τῶν αὐτῆς, ἔτι προσμένειν συμβουλευόντων, ὥς εἰς ἐλπίδας μεταβολῆς ἤζοντος ποτὲ τοῦ ἀνδρός, βιαζομένη αὐτὴν ἐπέμενε· ἐπειδὴ δὲ ὁ ταύτης ἀνὴρ, εἰς τὴν Ἀλεξάνδρειαν πορευθεὶς, χαλεπώτερα πράττειν ἀπηγγέλθη, ὅπως μὴ κοινωνῶνς τῶν ἀδικημάτων καὶ ἀσεβημάτων γένηται, μένουσα ἐν τῇ συζυγίᾳ, καὶ ὁμοδίαιτος καὶ ὁμόκοιτος γενομένη· τὸ λεγόμενον παρ’ ὧν ῥεπούδιον δοῦσα, ἐχωρίσθη. (Paris. 1742. p. 88.)*

^y Euseb. lib. iv. c. xvii.

^z Augustin. de adulterinis Conjugiis, lib. ii. c. vi. seqq. (tom. vi. Opp. p. 841, 842. seq. edit. Basil. 1569.) It. de bono conjugalī, cap. vii. (vi. 236.)

^a Concil. Neocæsar. can. viii. cit. supra ad § ii. sub litt. (n) p. 230.

^b Augustin. de adult. Conjug. lib. ii. tot. (Bened. 1700. vol. vi. p. 298.)

^c Augustin. de Fide et Oper. c. xix. (Bened. 1700. vol. vi. p. 136. E 13.) Quisquis uxorem in adulterio deprehensam dimiserit, et aliam duxerit, non videtur sequendus eis, qui excepta causa adulterii dimittunt et ducunt: et in ipsis divinis sententiis ita obscurum est, utrum et iste qui quidem sine dubio adulteram licet dimittere, adulter tamen habeatur, si alteram duxerit, ut, quantum existimo, venialiter ibi quisque fallatur. Quamobrem, quæ manifesta sunt impudicitiae crimina, omni modo a baptismo prohibenda sunt, nisi mutatione voluntatis et poenitentia corrigantur: quæ autem dubia, omni modo conandum

and marries another, is not to be ranked with those who put away their wives without cause, and marry again. For the question is so obscurely resolved in Scripture, whether he that putting away his wife for adultery, marries again, be upon that score an adulterer, that a man may be supposed to err venially in the matter. Therefore those crimes of uncleanness, which are manifestly so, ought to debar a man from baptism, unless he change his mind, and correct his crimes by repentance: but for those that are dubious, all that is to be done, is to endeavour to persuade men not to engage in such marriages. For what need is there for men to run their heads into such dangerous ambiguities? But if they are already done, I am not sure that they who do them, ought therefore to be denied baptism." By this it appears, that though St. Austin, in his own opinion, was persuaded that marrying after a lawful divorce was forbidden in Scripture; yet it was not so clearly forbidden as to render a man incapable of baptism; nor consequently of the communion: these being of the same account in Christianity, and a man that is incapable of the one, is incapable of the other. The first Council of Arles seems to have acted upon the same sentiments. The Fathers there^d declare it unlawful for men who put away their wives for adultery, to marry others: but they do not order that the great censure of excommunication shall be inflicted on them; but only that they shall be dealt with and advised not to marry a second wife, while the other, who was divorced for adultery, was living. The author, under the name of St. Ambrose,^e makes a difference between the man and the woman: he says, "The man was allowed to marry a second wife, after he put

est, ne fiant tales conjunctiones. Quid enim opus est in tantum discrimen ambiguitatis caput mittere? Si autem factæ fuerint, nescio utrum ii qui fecerint, similiter ad baptismum non debere videantur admitti.

^d Concil. Arelat. I. c. x. De his, qui conjuges suas in adulterio deprehendunt, et iidem sunt adolescentes fideles, et prohibentur nubere; placuit, ut, in quantum possit, consilium eis detur, ne viventibus uxoribus suis, licet adulteris, alias accipiant. (Labbé, vol. i. p. 1428.)

^e Ambros. in 1 Cor. vii. 11. tom. v. p. 262. (tom. iii. Opp. p. 365, Paris. edit. 1642.) Non permittitur mulieri ut nubat, si virum suum causa fornicationis dimiserit.—Viro licet ducere uxorem, si dimiserit uxorem peccantem, quia non ita lege constringitur vir, sicut mulier.

away a first for fornication, but the Apostle did not allow the same privilege to the woman." In which opinion he seems to be singular. For Epiphanius, speaking of the same matter,^f says, "That as the Scripture allows men to marry a second wife after the death of the first, so if a separation is made upon the account of fornication, or adultery, or any such cause, it does not condemn either the man that marries a second wife, or the woman that marries a second husband, nor deny them the privilege of Church communion or eternal life, but bears with them for their infirmity." And Origen,^g though he himself was against the thing, plainly declares that there were some bishops in his time who allowed women as well as men to marry after such divorces, whilst the separate party was still living: which he reckons indeed to be against those rules of the Apostle, 'A woman is bound as long as her husband liveth;' and, 'She shall be called an adulteress, if, as long as her husband liveth, she be married to another man.' Yet he thinks they might have reasons for permitting it: because perhaps they had regard to the infirmity of such as could not contain; and only permitted an evil against the original rule to avoid a greater sin. Yet some councils^h forbade such marriages under the penalty of excommunication to those

^f Epiphan. Hæres. lix. Catharor. n. iv. "Ἐξεστι δὲ τῷ λαῷ δι' ἀσθένειαν διαβασιάζεσθαι, καὶ μὴ δυνηθέντας ἐπὶ τῇ πρώτῃ γαμετῇ στήναι, δευτέρᾳ μετὰ θάνατον τῆς πρώτης συναφθῆναι· καὶ ὁ μὲν μίαν ἰσχυκῶς, ἐν ἑκατὼ μείζονι καὶ τιμῇ παρὰ πᾶσιν ἐκκλησιαζομένοις ἐνυπάρχει· ὁ δὲ μὴ δυνηθεὶς τῇ μὲ ἀρκισθῆναι τελευτησάσῃ, ἐνεκὲν τινος προφάσεως, πορνείας, ἢ μοιχείας, ἢ κακῆς αἰτίας χωρισμοῦ γενομένου, συναφθὲντα δευτέρᾳ γυναικὶ, ἢ γυνὴν δευτέρῳ ἀνδρὶ, οὐκ αἰτιᾶται ὁ θεὸς λόγος, οὐδὲ ἀπὸ τῆς ἐκκλησίας, καὶ τῆς ζωῆς ἀποκηρύττει, ἀλλὰ ἱαβασιάζει διὰ τὸ ἀσθενές. (Colon. 1682. vol. i. 496. D 6.)

^g Orig. tract. vii. in Matth. tom. ii. p. 67. (p. 43. a. edit. Paris. 1604.) Scio quosdam, qui præsumunt ecclesiis, extra scripturam permisisse, aliquam nubere viro, priori vivente: et contra scripturam quidem fecerunt, dicentem, Mulier ligata est, quanto tempore vivit vir ejus. Item, Vivente viro adultera vocabitur, si facta fuerit alteri viro. Non tamen omnino sine causa hoc permiserunt. Forsitan enim propter hujusmodi infirmitatem incontinentium hominum, pejorum comparatione, quæ mala sunt, permiserunt adversus ea, quæ ab initio fuerant scripta.

^h Concil. Illiberit. c. ix. (Labbe, vol. i. p. 971.) Femina fidelis, quæ adulterum maritum reliquerit fidelem, et alterum [adulterum] ducit, prohibeatur ne ducat: si [autem] duxerit, non prius accipiat communionem, nisi [quam is,] quem reliquerit, de sæculo exierit; nisi forte necessitas infirmitatis dare compulerit.

that were of the number of the faithful; only making some allowance to those that were mere catechumens.¹ To this purpose there are two canons in the council of Eliberis, and one in the Council of Milevis^k which orders that according to the evangelical and apostolical discipline, neither the man that is divorced from his wife, nor the woman divorced from her husband, shall marry others, but either abide so, or be reconciled: and they that condemn this order, are to be subjected to public penance; and withal a petition should be presented to the emperor to desire him to confirm this rule by an imperial sanction. From all which we may easily perceive, that this was always reckoned a difficult question, Whether persons, after a lawful divorce, might marry again in the lifetime of the relinquished party? The Imperial laws allowed it; many of the ancient Fathers also approved it; some condemned it, but suffered it to pass without any public punishment; and others required a certain penance to be done for it in the church. Of all which different practices the learned reader that is more curious, may find an ample account in Cotelerius's^l Notes upon Hermes Pastor. But though they differed upon this point, there was no disagreement upon the other, that to marry a second wife after an unlawful divorce, whilst the former was living, was professed adultery; and as such, to be punished by the sharpest censures of the Church. The Apostolical Canons^m order every one to be excommunicated who

¹ Ibid. can. x. Si ea, quam catechumenus reliquerit, duxerit maritum, potest ad fontem lavacri admitti. Hoc et circa feminas catechumenas erit observandum.

^k Concil. Milevitan. c. xvii. (Labbé, vol. ii. p. 1541.) Placuit, ut secundum evangelicam et apostolicam disciplinam, neque dimissus ab uxore, neque dimissa a marito, alteri conjungantur: sed ita maneant, aut sibimet reconcilientur. Quod si contemserint, ad poenitentiam redigantur. In qua causa legem imperialem petendam promulgari.

^l Coteler. Patr. Apostol. tom. i. p. 88. tot.

^m Can. Apost. xlvii. (Labbé, vol. i. p. 35.) Εἰ τις λαϊκὸς τὴν ἑαυτοῦ γυναῖκα ἐκβάλλων, ἐτίραν λάβῃ, ἢ παρὰ ἄλλου ἀπολειυμένην, ἀφορίζεσθω. — Vide Basil. can. xlviii. (Labbé, vol. ii. p. 1745.) Ἡ δὲ ἐγκαταλειφθεῖσα παρὰ τοῦ ἀνδρός, κατὰ τὴν ἐμὴν γνώμην, μένειν ὀφείλει· εἰ γὰρ ὁ Κύριος εἶπεν, ὅτι ἰάν τις καταλείπῃ γυναῖκα, ἐκτός λόγου πορνείας, ποιῇ αὐτὴν μοιχεῖσθαι· ἐκ τοῦ μοιχαλίδος αὐτὴν ὀνομάσαι, ἀπέκλεισεν αὐτὴν τῆς πρὸς ἕτερον κοινωρίας. πῶς γὰρ δύναται ὁ μὲν ἀνὴρ ὑπεύθυνος εἶναι, ὡς μοιχείας αἴτιος, ἢ δὲ

either puts away his wife and marries again, or marries one that is put away by another. And all canons generally agree to debar such from entering into holy orders, as marry a wife that is put away by another man. The Council of Eliberis goes further,ⁿ and orders such women as forsake their husbands without cause, and marry others, to be refused communion even at their last hour. And such as marry men who have^o put away their wives unjustly, if they do it knowingly, are not to be received till the last moment of their days; or as other copies read it, no not at their last hour.

SECT. VII.—*Of second, third, and fourth Marriages.*

Some canons also press hard upon second, third, and fourth marriages, by which they seem not to understand either simultaneous polygamy, or marrying after divorce, whilst the former wife was living; but marrying two or three wives successively after the death of the former. For though they did not account these downright adultery, nor with the Montanists and Novatians condemn them as simply unlawful; yet some of the ancients were willing to discourage them, and therefore they imposed a certain term of penance upon them. The Council of Neocæsarea^p in one canon says, “They that marry, often have a time of penance allotted them,” and in another,^q “No presbyter shall be present at the marriage-feast of those that marry twice: for a digamist requires penance. How, then, shall a presbyter by his presence at such feasts give

γυνὴ ἀναίτιος εἶναι, ἢ μοιχαλὶς παρὰ Κυρίου, διὰ τὴν πρὸς ἕτερον ἄνδρα κοινω-
νίαν, προσαγορευθεῖσα;

ⁿ Concil. Illiberit. c. viii. (Labbé, vol. i. p. 971.) *Feminæ, quæ, nulla præcedente causa, reliquerint viros suos, et alteris se copulaverint, nec in fine accipiant communionem.*

^o Ibid. can. x. (Labbé, vol. i. p. 971.) *Si fuerit fidelis, quæ ducitur ab eo, qui uxorem inculpatam reliquit, et quum scierit illum habere uxorem, quam sine causa reliquit; placuit huic nec in finem dandam esse [hujusmodi in fine dari] communionem.*

^p Concil. Neocæsar. c. iii. (Labbé, vol. i. p. 1481.) *Περὶ τῶν πλειστοῖς γάμοις περιπιπτόντων, ὁ μὲν χρόνος σαφὴς ὁ ὠρισμένος· ἡ δὲ ἀναστροφή καὶ ἡ πίστις αὐτῶν συντέμνει τὸν χρόνον.*

^q Ibid. c. vii. (Labbé, vol. i. p. 1481.) *Πρεσβύτερον ἐν γάμοις διαγαμούντων μὴ ἐστῆσθαι· ἐπεὶ μετάνοιαν αἰτοῦντος τοῦ διγάμου, τίς ἔσται ὁ πρεσβύτερος, ὁ διὰ τῆς ἐστιάσεως συγκατατιθέμενος τοῖς γάμοις;*

consent to such marriages?" There are many other harsh expressions in Athenagoras, Irenæus, Origen, Gregory Nazianzen, Chrysostom, Jerom, and others, concerning second and third marriages, which the learned reader may find collected by Cotelierius^r in his Notes upon Hermes Pastor and the Constitutions.^s The latter of which writers declares also against second and third marriages, as transgressions of the law; and brands fourth marriages with the hard name of *προφανής πορνεία*, manifest fornication. But Hermes Pastor is more candid: for in answer to the question, 'Whether men or women may marry after the death of a first consort?' he says, "He that marries,^t sins not: but if he continues as he is, he shall obtain great honour of the Lord." He neither condemns second marriage, nor gives it any hard name, nor lays any penalty upon it; but only makes it matter of counsel and advice to refrain under the prospect of a great reward. And St. Austin^u answers the question after the same manner,

^r Cotelier. not. in Herm. Pastor. mandat. iv. lib. ii. p. 87, 88. et in Constit. lib. iii. c. ii. p. 275, 276.

^s Constit. lib. iii. c. ii. (Labbé, vol. i. p. 307.) *Καὶ τοῦτο εἶδέναι ὀφείλετε, ὅτι μονογαμία μὲν κατὰ νόμον γινομένη, δικαία, ὡς ἂν κατὰ γνώμην Θεοῦ ὑπάρχουσα· διγαμία δὲ μετὰ ἐπαγγελίαν, παράνομον· οὐ διὰ τὴν συνάφειαν, ἀλλὰ διὰ τὸ ψεῦδος. τριγαμία δὲ, ἀκρασίας σημεῖον· τὸ δὲ ὑπὲρ τὴν τριγαμίαν, προφανὲς πορνεία, καὶ ἀσελγεία ἀναμφίβολος.*

^t Herm. Past. lib. ii. mandat. iv. n. iv. (Lugdun. 1652. p. 33.) Si vir, vel mulier alicujus decesserit, et nupserit aliquis illorum, numquid peccat? Qui nubit, non peccat: sed si per se manserit, magnum sibi conquirat honorem apud Dominum.

^u August. de bono Viduitatis, c. xii. (Bened. 1700. vol. vi. p. 276. D 3.) (tom. iv. Opp. p. 1025, edit. Basil. 1569.) De tertiis et de quartis et de ultra pluribus nuptiis solent homines movere questionem. Unde, ut breviter respondeam, nec ullas nuptias audeo damnare, nec eis verecundiam numerositatis auferre. Sed ne cuiquam brevitatis hujus responsionis forte displiceat, uberius disputantem reprehensorem meum audire paratus sum. Fortassis enim adfert aliquam rationem, quare secundæ nuptiæ non damnentur, tertiæ damnentur. Nam ego non audeo plus sapere, quam oportet sapere. Quis enim sum, qui putem definendum, quod nec apostolum video definisse? Ait enim, 'Mulier adligata est, quamdiu vir ejus vivit.' Non dixit, primus, aut secundus, aut tertius, aut quartus: sed 'Mulier,' inquit, 'alligata est, quamdiu vir ejus vivit: si autem mortuus fuerit vir ejus, liberata est; cui vult nubat; tantum in Domino. Beatior autem erit, si sic permanserit.' Quid huic sententiæ, quantum ad hanc rem attinet, addi vel detrahi possit, ignoro. Deinde ipsum quoque apostolorum ac nostrum Magistrum et Dominum audio Sadducæis respondentem, quum proposuissent mulierem non univiram vel biviram, sed, si dici potest, septiviram, in

“That he dares not condemn any marriages for the number of them, whether they be second or third, or any other. I dare not be wise above what is written. Who am I, that I should define what the Apostle has not defined? ‘The woman is bound,’ says the Apostle, ‘as long as her husband liveth.’ He said not the first husband, or the second, or the third, or the fourth; but, ‘The woman is bound as long as her husband liveth: but if her husband be dead, she is at liberty to be married to whom she will; only in the Lord. But she is happier, if she so abide.’ I see not what can be added to, or taken from this sentence. Our Lord himself did not condemn the woman that had seven husbands. And therefore I dare not out of my own heart, without the authority of Scripture, condemn any number of marriages whatsoever. But what I say to the widow that has been the wife of one man, the same I say to every widow, Thou art happier if thou so abidest.” Epiphanius had occasion to dispute the matter both against the Montanists and Novatians; where he says,^v “The Montanists were of the number of those who forbid men to marry, rejecting all such as were twice married, and compelling them not to take a second wife: whereas the Church imposed no necessity on men, but only counselled and exhorted those that were able, laying no necessity upon the weak, nor rejecting them from hopes of eternal life.” In like manner he blames

resurrectione ejus futura esset uxor. Increpans enim eos, ait, ‘Erratis, non scientes scripturas, neque virtutem Dei. In resurrectione enim nec nubent, nec uxores ducent: non enim incipient mori, sed erunt æquales angelis Dei.’ Eorum itaque resurrectionem commemoravit, qui resurgent ad vitam, non qui resurgent ad poenam. Potuit ergo dicere, Erratis, nescientes scripturas neque virtutem Dei: in illa enim resurrectione multinubæ istæ esse non poterunt: deinde addere, quia nec aliqua ibi nubit. Sed nec ipsam, ut videmus, tot maritorum mulierem ulla suæ sententiæ significatione damnavit. Quapropter nec contra humanæ verecundiæ sensum audeo dicere, ut quotiens voluerit, viris mortuis, nubat femina: nec ex meo corde præter scripturæ sanctæ auctoritatem quotaslibet nuptias audeo condemnare. Quod autem dico univiræ viduæ, hoc dico omni viduæ; Beatior eris, si sic permanseris.

^v Epiphan. Hæres. xlviii. n. ix. (Paris. 1662.) ‘Εκβάλλουσι γὰρ τὸν δευτέρῳ γάμῳ συναφθέντα, καὶ ἀναγκάζουσι μὴ δευτέρῳ γάμῳ συνάπτεσθαι. ἡμεῖς δὲ οὐκ ἀνάγκην ἐπιτιθέμεν· ἀλλὰ παραινοῦμεν, μετὰ συμβουλίας ἀγαθῆς προτροπόμενοι τὸν δυνάμενον· οὐκ ἀνάγκην δὲ ἐπιτιθέμεν τῷ μὴ δυναμένῳ· οὐκ ἐκβάλλομεν αὐτὸν ἀπὸ τῆς ζωῆς. (Colon. 1682. vol. i. p. 410. D 9.)

the Novatians^x for making the rule which was given to the clergy, to be the husband of one wife, extend to all: whereas it was lawful for the people, after the death of a first wife, to marry a second. For though he who was content with one wife, was had in more honour and esteem by the Church, yet the Scripture did not condemn him who married a second after the death of the first, or after a divorce made for fornication or adultery, or any such cause; neither did it reject him from the privilege of Church communion or eternal life. And it is certain the great Council of Nice^y thus determined the matter against the Novatians, requiring them, upon their return to the Church, to make profession in writing, that they would submit to the decrees of the catholic Church, particularly in this, that they would *διγάμοις κοινωνεῖν*, 'communicate with digamists,' or those that were twice married. So that whatever private opinions some might entertain in this matter, or whatever private rules of discipline there might be in some particular Churches in relation to digamists, it is evident the general rule and practice of the Church was not to bring such under discipline, as guilty of any crime, which at most was only an imperfection in the opinion of many of those who passed an heavier censure on it. As for such as plainly condemned second, third, or fourth marriages, as fornication or adultery, I see not how they can be justified or reconciled to the practice of the catholic Church: and therefore I leave them to stand or fall by themselves, and go on with the more uncontested discipline of the Church against some other practices of uncleanness.

SECT. VIII.—*Of Ravishment.*

Among which they set a peculiar mark upon ravishment, that is, using force and violence to virgins and matrons, to compel them to commit uncleanness. Constantine, in one of

^x Ibid. Hæres. lix. n. iv. (Paris. 1662.) Τὰ εἰς ἱερωσύνην παραδοθέντα διὰ τὸ ἐξοχώτατον τῆς ἱερουργίας, εἰς πάντας ἐνόμισαν ἴσως φέρεσθαι ἀκηκόετες ὅτι δεῖ τὸν ἐπίσκοπον ἀνεπιληπτον εἶναι, μᾶς γυναικὸς ἄνδρα, κ. τ. λ. See note (f) p. 246.

^y Concil. Nicæen. can. viii. (Labbé, vol. i. p. 32.) Πρὸ πάντων δὲ τοῦτο ὁμολογῆσαι αὐτοὺς ἐγγράφως προσήκει, ὅτι συνθήσονται καὶ ἀκολουθήσουσι τοῖς τῆς καθολικῆς καὶ ἀποστολικῆς ἐκκλησίας δόγμασι· τοῦτ' ἐστὶ, καὶ διγάμοις κοινωνεῖν, κ. τ. λ.

his laws,^a condemns all sorts of raptors to the flames, as well those that ravished virgins against their wills, as those that stole them with their own consent against the will of their parents. And though Constantius a little moderated the punishment, yet he still made it a capital crime, to be punished with death : ^a and in case a slave was concerned in it, he was left to the severity of the former law, to be burned alive. Jovian also made it a capital crime ^b for any one not only to commit a rape upon a consecrated virgin, but to solicit her to marry either willingly or unwillingly against the rules of her profession. The laws of the Church could inflict no such punishment ; but when there was occasion, they drew the spiritual sword against them. “ If any one offers violence to a virgin not espoused to him, let him be excommunicated, say the Apostolical Canons ; ^c neither shall he take any other wife but her whom he has so detained, although she be poor.” St. Basil condemns ^d those who are guilty of committing rapes upon virgins, to four years’ penance, as fornicators ; where by a rape he means the lowest degree of it, that is, stealing a virgin espoused to another man, and detaining her against her father’s consent. In which he also orders, ^e not only the raptor to be excommunicated, but also his family, and the place or village where he dwelt, if they were accomplices, or aiding and assisting to him in his usurpation. From whence we may infer, that if stealing and detaining a virgin with

^a Cod. Theodos. lib. ix. tit. xxiv. de Raptu Virginum, leg. i. cit. supr. cap. ix. § ii. sub litt. (h) p. 193.

^a Ibid., leg. ii. cit. ibid. sub litt. (i) p. 195.

^b Cod. Theod. lib. iv. tit. xxv. de raptu vel matrimonio sanctimonialium, leg. ii. Si quis, non dicam, rapere, sed vel adtemptare, matrimonii jungendi causa, sacratas virgines, vel invitas ausus fuerit, capitali sententia ferietur. See Justin. Novell. xiv. de Lenonibus, tot.

^c Can. Apost. lxvi. (Labbé, vol. i. p. 40.) *Εἰ τις παρθένον ἀμνήστευτον βιασάμενος ἔχει [σχῆ], ἀφορίζεσθω· μὴ ἐξεῖναι δὲ αὐτῇ ἐτέραν λαμβάνειν, ἀλλ’ ἐκείνην κατέχειν, ἣν [καὶ] ᾗρετίσατο, ἐὰν πενιχρὰ τυγχάνῃ.*

^d Basil. can. xxii. vide c. ix. § ii. sub litt. (o) p. 196.

^e Basil. Epist. cexliv. *Τὴν μὲν παῖδα, ὅπου περ ἂν εὖρης ἀφελόμενος πάσῃ εὐτονίᾳ ἀποκατάστησον τοῖς γονεῦσι· καὶ αὐτὸν δὲ ἐκείνον ἐξόρισον τῶν εὐχῶν, καὶ ἐκκήρυκτον ποίησον· καὶ τοὺς συνεπιθόντας αὐτῷ, κατὰ τὸ ἥδη προλαβόν παρ’ ἡμῶν κήρυγμα, τριετίαν πανοικίᾳ τῶν εὐχῶν ἐξόρισον· καὶ τὴν κώμην τὴν ὑποδεξαμένην τὴν ἀρπαγείσαν καὶ φυλάξασαν, ἥτοι ὑπερμαχήσαν, καὶ αὐτὴν ἐξω τῶν εὐχῶν πανδημεὶ ποίησον.*

her own consent was thus punishable, the defiling of her by violence was a more heinous crime, and censured with greater severity in the discipline of the Church.

SECT. IX.—*Of unnatural Impurities.*

What has hitherto been said, relates to the violation of the laws of chastity in the ordinary course of nature. Beyond which there were some monstrous impurities, consisting in the several species of unnatural uncleanness; such as the defilement of men with brutes, commonly called bestiality; and the defilement of men with men, working that which is unseemly, after the manner of Sodom; and the defilement of men's own bodies with themselves by voluntary self-pollution. Tertullian^f calls all these "impious furies of lust, which make men change the natural use of the sex into that which is against nature; on which the Church laid an uncommon and singular punishment, excluding them not only from all parts of the Church, but from the very first entrance of it; because they were not ordinary crimes, but monsters." The Council of Ancyra has two canons relating to these crimes, the first of which orders that they who are guilty of bestial lusts before they are twenty years^g old, be prostrators fifteen years, and after that communicate in prayers only for five years; but if they exceed that age, and be married when they fall into this sin, they are to be prostrators twenty-five years, and five years after communicate in prayers only; if they are above fifty years old, and be married, they are to do penance all their lives, and only communicate at the point of death. The next

^f Tertull. de Pudicitia, c. iv. (Paris. 1664. p. 557. B 9.) Reliquas autem libidinum furias impias et in corpora et in sexus ultra jura naturæ, non modo limine, verum omni ecclesiæ tecto submovemus; quia non sunt delicta sed monstra.

^g Concil. Ancyra. c. xvi. (Labbe, vol. i. p. 1461.) Περί τῶν ἀλογευσμένων, ἡ καὶ ἀλογευμένων. "Οσοι πρὶν εἰκοσαετῆς γενέσθαι ἡμαρτον, πέντε καὶ δέκα ἔτισιν ὑποπεσόντες, κοινωνίας τυγχάνεωσαν τῆς εἰς τὰς προσευχάς· εἰτα ἐν τῇ κοινωνίᾳ διατελέσαντες ἔτη πέντε, τότε καὶ τῆς προσφορᾶς ἐραπίεσθωσαν. . . "Οσοι δὲ ὑπερβάντες τὴν ἡλικίαν ταύτην, καὶ γυναῖκας ἔχοντες, περιπεπτώκασι τῷ ἁμαρτήματι, πέντε καὶ εἴκοσι ἔτη ὑποπεσέτωσαν· καὶ κοινωνίας τυγχάνεωσαν τῆς εἰς τὰς προσευχάς· εἰτα ἐκτελέσαντες πέντε ἔτη ἐν τῇ κοινωνίᾳ τῶν εὐχῶν, τυγχάνεωσαν τῆς προσφορᾶς. Εἰ δὲ τινες καὶ γυναῖκας ἔχοντες, καὶ ὑπερβάντες τὸν πεντηκονταετη χρόνον, ἡμαρτον, ἐπὶ τῇ ἐξόδῳ τοῦ βίου τυγχάνεωσαν τῆς κοινωνίας.

canon orders,^h that they who are guilty of bestial lusts, and are leprous, (that is, infect others by tempting and teaching them to commit the same sin,) should pray εἰς τοὺς χειμαζομένους, inter hyemantes, that is, either among the Demoniacs, or those that were exposed to the weather without the walls of the church. Suicerusⁱ thinks this canon is to be understood of those, that were infected with the corporal disease of leprosy, who by the old law were removed without the camp; but it is more probable it means the spiritual leprosy of those who infected others with the contagion of the same beastly sins, and taught or tempted them to commit the same uncleanness. For otherwise, leprosy under the Gospel would not deserve the extremity of punishment, but commiseration and mercy. St. Basil imposes^k the penance of adulterers, that is, twenty years' penance, both upon those that abuse themselves with beasts, and those that abuse themselves with mankind. And sometimes he lengthens^l the term to thirty years, comparing these sins with murder, idolatry, witchcraft, and adultery; which, he says, all deserve the same punishment. The Council^m of Eliberis imposes a severer punishment upon those, that so abuse boys to satisfy their lusts. For such

^h Ibid. can. xvii. (Labbé, vol. i. p. 1461.) Τοὺς ἀλογευσμένους καὶ λεπροὺς ὄντας, ἦτοι λεπρώσαντας, τοὺτους προσέταξεν ἡ ἀγία σύνοδος εἰς τοὺς χειμαζομένους εὐχεσθαι.

ⁱ Suicer. Thesaur. Eccles. voce λεπρός, tom. ii. p. 226. Hoc decimo septimo canone (Ancyrano) addunt, si ejusmodi homines leprosi fuerint, ad hiemantes, id est, extra omnem ecclesie ambitum, εἰς ὑπαίθριον καὶ τὰ τοῦ ναοῦ προαύλια esse submovendos, ne scilicet sui corporis contagio ceteros inficerent, ut ibi poenitentiam, quæ canone præcedenti definita fuerat, peragant. Mosaica lege (Levit. xiii. 46. Num. v. 2.) leprosi a reliquo cætu prohibentur, qui mos in Europa viget, non religionis sed sanitatis causa.

^k Basil. can. lxii. (Labbé, vol. ii. p. 1749.) 'Ο τὴν ἀσχημοσύνην ἐν τοῖς ἀρρεσιν ἐπιδεικνύμενος, τῷ χρόνῳ τοῦ ἐν τῇ μοιχείᾳ παρανομοῦντος οἰκονομηθήσεται.—Can. lxiii. (Labbé, vol. ii. p. 1749.) 'Ο ἐν ἀλόγοις τὴν ἑαυτοῦ ἀσίβειαν ἐξαναγορεύων, τὸν αὐτὸν λόγον ἐξομολογούμενος παραφυλάττεται.

^l Ibid. can. vii. (Labbé, vol. ii. p. 1724.) 'Αρρενοφθόροι καὶ ζωοφθόροι, καὶ φονεῖς, καὶ φαρμακοὶ, καὶ μοιχοὶ, καὶ εἰδωλολάτραι, τῆς αὐτῆς καταδίκης εἰσὶν ἡξιωμένοι, κ. τ. λ.—Gregor. Nyssen. can. iii. (Labbé, vol. ii. p. 1784. B.) Διπλασίων ὥρισθη τῆς ἐπιστροφῆς ὁ χρόνος τοῖς ἐν μοιχείᾳ μιανθεῖσι, καὶ ἐν τοῖς ἀπηγορευμένοις κακοῖς, ζωοφθορία τε καὶ τῇ κατὰ ἀρρένας λύσση.

^m Concil. Illiberit. c. lxxi. (Labbé, vol. i. p. 978.) Stupratoribus puerorum nec in fine dandam esse communionem.

are denied communion even at their last hour. The laws of the old Romans had provided no sufficient remedy for these corruptions. There was an old law, called the 'Lex Scatinia,' mentioned by Juvenalⁿ and some others: but it lay dormant for many ages, till the Christian emperors came to revive it. The frequent complaints that are made by the Christian writers of the three first ages, Clemens Alexandrinus,^o Justin Martyr,^p Tatian,^q Minutius Felix,^r Tertullian,^s Cyprian,^t and Lactantius,^u sufficiently show that these vices were prac-

ⁿ Juvenal. Satir. ii. v. 43, 44.

Quod si vexantur leges ac jura, citari

Ante omnes debet Scatinia

Valer. Maxim. Histor. lib. vi. c. i. M. Claudius Marcellus, ædilis curulis, C. Scatinio Capitolino, trib. pl., diem ad populum dixit, quod filium suum de stupro appellasset: eoque adseverante, se cogi non posse ut adesset, quia sacrosancctam potestatem haberet, et ob id tribunitium auxilium implorante; totum collegium tribunorum negavit se intercedere, quo minus pudicitie quæstio perageretur. Citatus itaque Scatinus reus, uno teste, qui tentatus erat, damnatus est.

^o Clem. Alexandr. Pædag. lib. i. c. iii.

^p Justin. Apol. ii. p. 50. (Paris. 1742. p. 97.) Διὸς δὲ καὶ τῶν ἄλλων θεῶν μιμηταὶ γενόμενοι ἐν τῷ ἀνδροβατεῖν καὶ γυναῖξιν ἀδίκως μίγνυσθαι κ. τ. λ.—(Ibid. p. 56.) Μιμητὰς γὰρ θεῶν καλὸν εἶναι πάντες ἡγούνται· ἀπείη δὲ σωφρονοῦσης ψυχῆς ἔννοια τοιαύτη περὶ θεῶν, ὥς καὶ αὐτὸν τὸν ἡγεμόνα καὶ γεννήτορα πάντων κατ' αὐτοῦς Δία, πατροφόντην τε καὶ πατὴρ τοιούτου γεγονέναι, ἔρωτι τε κακῶν καὶ αἰσχυρῶν ἡδονῶν ἤττω γενόμενον, ἐπὶ Γανυμήδην καὶ τὰς πολλὰς μοιχευθείσας γυναῖκας ἐλθεῖν, καὶ τοὺς αὐτοῦ παῖδας τὰ ὅμοια πράξαντας παραδείξασθαι.

^q Tatian. Orat. ad Græc. p. 165. ad calcem Justin. Παιδερασσία μὲν ὑπὸ βαρβάρων διώκεται, προνομίας δὲ ὑπὸ Ῥωμαίων ἡξίωται, παίδων ἀγέλας ὥσπερ ἱππῶν φορβάδων, συναγείρειν αὐτῶν πειρωμένων. (Paris. 1742. p. 267.)

^r Minut. Octav. p. 68. (cap. xxii. n. 6. p. 80, edit. Hallens.) Quid loquar Martis et Veneris adulterium deprehensum? et in Ganymedem Jovis stuprum cælo consecratum? quæ omnia in hoc prodita, ut vitii hominum quædam auctoritas pararetur.

^s Tertull. de Monogam. c. xii. (Paris. 1664. p. 533.) Sicut ille vester Uthinensis nec Scatiniam timuit.—Id. ad Nation. lib. i. c. xvi. (p. 61. A 4.) Date aliquam nationem vacantem ab eis, quæ omne hominum genus ad incestum trahunt. Si qua gens concubitu ipso et ætatis ac sexus necessitate, ne dixerim libidine et luxuria caret, ea erit, quæ carebit incesto: si qua ab humana conditione privata quadam natura remota est, ut neque ignorantie, neque errori, neque casui opposita sit, ea erit, quæ sola Christianis respondere constantius possit.

^t Cyprian. ad Donat. p. 6. (p. 5. lin. 2, edit. Amstelod.) Libidinibus insanis in viros viri prorunt.

^u Lactant. lib. v. c. ix. (Dufresnoy, vol. i. p. 384.) Qui corpora sua libidinibus prostituant; qui denique immemores, quid nati sint, cum feminis patientia cer-

tised with impunity among the heathen. The law made against them was only a pecuniary^x mulct, and that was very rarely put in execution against them. Suetonius^y says, Domitian, in the first and good part of his reign, condemned some few offenders by this law: but the distemper grew so raging and inveterate afterwards, that Alexander Severus, a much better prince, durst not effectually set about the cure of it, as Lampridius^z testifies in his life. After him Philip the emperor, who by some is called a Christian, made a new law to forbid it; but the main business devolved at last upon those that were more undoubtedly Christians. Among whom Constantius,^a by one of his laws extant in both the Codes, made it a capital crime, and ordered it to be punished with death by the sword. Theodosius^b added to the penalty by a severer sanction, ordering that such as were found guilty of this unnatural vice should be burnt alive in the presence of all the people. Thus the civil and ecclesiastical laws combined together to exterminate all sorts of uncleanness; deterring men from such acts of impurity, as were a scandal to the Christian profession, by such penalties, temporal and spiritual, as were thought most proper to be inflicted in order to restrain them.

SECT. X.—*Of maintaining and allowing Harlots.*

Neither was it only the direct and immediate acts of uncleanness they thus censured and punished, but all other acts

tent; qui sanctissimam quoque corporis sui partem contra fas omne polluant ac profanent, etc.

^x Vide Quintilian. Institut. lib. iv. c. ii. (Spalding, vol. ii. p. 99.) Decem millia, quæ poena stupratori constituta est dabit.

^y Sueton. Vit. Domitian. c. viii. Quosdam ex utroque ordine lege Scatinia condemnavit.

^z Lamprid. vit. Alex. Severi, p. 350. (inter Scriptor. Histor. Aug. tom ii. p. 212, edit. Francof. 1588.) Habuit in animo, ut exoletos vetaret, quod postea Philippus fecit; sed veritus est, ne prohibens publicum dedecus in privatas cupiditates converteret; quum homines illicita magis poscant, prohibitaque furore persequuntur.

^a Cod. Theodos. lib. ix. tit. vii. (Lugdun. 1665. vol. iii. p. 59.) ad legem Juliam de Adulteris, leg. iii. Quum vir nubit in feminam . . . ubi Venus mutatur in alteram formam . . . jubemus insurgere leges, armari jura gladio ultore, ut exquisitis poenis subdantur infames.

^b Ibid. leg. vi. Hujusmodi scelus, expectante populo, flammis vindicibus expiabunt.

that opened and prepared the way to them. Of which kind, the maintaining or encouraging of harlots publicly or privately, was always reckoned a most infamous practice. Great complaints have been made by writers^c of divers kinds, of the licentiousness of many modern popes in granting tolerations at Rome to such lewd and wicked practices, and receiving annual pensions for the toleration of them. But the ancient laws, both civil and ecclesiastical, were far from such abuses. Heathen Rome, in this respect, was more chaste and modest than the modern papacy. For even there we find a law, recorded^d out of Papinian in the Pandects, "That whoever wittingly let his house be the place to commit fornication or adultery with another man's wife, or any defilement with mankind, or made any gain of the adultery of his own wife, should be punished as an adulterer, of whatever condition he was." And it is remarkable in the laws of Constantine,^e "That a man was allowed to put away his wife, not only if she was an

^c Vid. Zepper. *Legum Mosaicar. Explanat.* lib. iv. c. xviii. p. 457. Paulus tertius in tabellis quadraginta quinque meretricum millia numerata habebat, ex quarum fornicatione singulis mensibus census exegit, queque cum papa die noctuque consuetudinem habebant, et in summo honore a papa habebantur.—Agripp. de Vanit. *Scientiarum*, c. lxiv. ap. Mornæum, p. 1310. (p. 594, edit. Salmur. 1611. folio.) Inter lenones recentiorum temporum, qui lupanaria ædificabant, nobilis erat Sixtus IV. Romanus pontifex, qui Romæ nobile admodum lupanar exstruxit, atque utrique Veneri adsignavit; meretricum cohortes, Heliogabali exemplo, ita aluit, amicisque et servis exhibuit, non nihil emolumenti ex meretricio quæstu ærario suo accumulans: Romana enim scorta in singulas hebdomadas Julium nummum adhuc pendent pontifici, qui census annuus nonnumquam viginti millia ducatos excedit: adeoque procerum ecclesiæ id munus est, ut una cum ecclesiarum proventibus, etiam lenociniorum numerent mercedem.—Wesel. *Groning. de Indulgentiis Papalibus*. Ad prædicti Petri, tunc S. Sixti cardinalis ac patriarchæ Constantinopolitani et Hieronymi fratris sui postulationes, domesticæ familiæ toti cardinalis D. Lucæ, qui Paulo secundo a venationibus fuerat, in tribus mensibus anni calidioribus Junio, Julio et Augusto, masculino coitu frui permisit, cum hac clausula; 'Fiat ut petitur.'

^d Pandect. lib. xlviii. tit. v. ad legem Jul. de Adulteris, leg. viii. Qui domum suam, ut stuprum adulteriumve cum aliena matre familias, vel masculo fieret, sciens præbuerit, vel quæstum ex adulterio uxoris suæ fecerit, cujuscunque sit conditionis, quasi adulter punitor.

^e Cod. Theod. lib. iii. tit. xvi. de Repudiis, leg. i. In masculis, si repudium mittant, hæc tria crimina inquiri conveniet, si mœcham, vel medicamentariam, vel conciliatricem repudiare voluerit. (Lugdun. 1665. vol. i. p. 310.)

adulteress herself, but if she was a conciliatrix, a pandor or procurer of adultery in others." By the laws of Theodosius junior,^f if any parent or master prostituted his daughter or his maid-slave, they were to forfeit all right of dominion over them: the parties so compelled might appeal to the bishop of the place, or the judge, or the defensor, and require their assistance or protection; and if after that, their superiors, master, or father, would go on as panders still to compel them, their goods were to be confiscated, and their persons banished and sent to the mines. Socrates^g commends Theodosius the Great for another good law, whereby he demolished the infamous houses, commonly called *Σείστρα* at Rome. For till his time a very evil custom prevailed there, that when any woman was taken in adultery, she was condemned by way of punishment to be a common prostitute in the public stews: which kind of punishment, as Socrates truly remarks, did no ways contribute toward her amendment, but only compelled her to add sin to sin. Therefore Theodosius, in his zeal for the piety and purity of the Christian religion, abolished this impudent and scandalous punishment; providing other penalties for adultery, and destroying these infamous houses out of Rome. Theodosius junior did the same good service at Constantinople by a new law, ordering^h all panders, who kept

^f Cod. Justin. lib. xi. tit. xl. de Spectaculis et Scenicis et Lenonibus, leg. vi. Lenones patres et dominos, qui suis filiabus vel ancillis peccandi necessitatem imponunt; nec jure frui dominii, nec tanti criminis patitur libertate gaudere. Igitur tali placet eos indignatione subduci, ne potestatis jure frui valeant, neve quid eis ita possit acquiri: sed ancillis filiabusque, si velint, conductivæ pro paupertate personis, quas sors damnavit humilior, episcoporum liceat, judicium etiam defensorumque implorato suffragio omni miseriarum necessitate absolvi: ita ut si insistendum eis lenones esse crediderint, vel peccandi ingerant necessitatem invitis, amittant non solum eam, quam habuerint potestatem, sed proscripti, pœnæ mancipientur exilii, metallis addicendi publicis. (Amstel. 1663. p. 339.)

^g Socrat. lib. v. c. xviii. (Vales. Amstel. 1695. p. 227. D 12.) Εἰ ἦλω ἐπὶ μοιχείᾳ γυνή, οὐ διορθώσεαι, ἀλλὰ προσθήκη τῆς ἀμαρτίας ἐτιμωροῦντο τὴν παῖσασαν· ἐν γὰρ πορνείῳ στενῶ κατάκλειστον ποιήσαντες, ἀναιδῶς ἐποιοῦν πορνεύεσθαι ... ταῦτα οὐκ ἤνεγκεν ὁ βασιλεὺς, πυθόμενος τὴν ἀναιδῆ συνήθειαν, ἀλλὰ κατέλυσε τὰ σείστρα, οὕτω γὰρ ὠνομάζετο τὰ τοιαῦτα πορνεία· τοῖς ἄλλοις ὑποπίπτειν νόμοις τὰς ἀλούσας ἐπὶ μοιχείᾳ κελεύσας.

^h Theodos. Novell. tit. xviii. de Lenonibus, ad calcem cod. Theodos. tot. p. 10.

infamous houses, to be publicly whipped and expelled the city; and that all their slaves, whom they kept for such vile purposes, should be set at liberty. And whereas hitherto these wretches had kept up their trade in spite of former laws, under pretence of paying a certain annual tax to the government out of their infamous gain; Theodosius abrogated this tax; and in lieu of it one Florentius, a nobleman, by whose pious advice the emperor did this, gave an equivalent out of his own estate to the exchequer, that there might be no deficiency or damage accruing to the public revenue, which might afterwards be used as a plea to grant these miscreants a new toleration. Thus these pious emperors laboured to extirpate this abominable vice out of their two great capitals. And when some remainders of it continued notwithstanding all their endeavours, Justinian resumed the matter, reviving and confirming all the preceding laws by a new edictⁱ of his own, and augmenting the punishments specified in them, to root out this abominable way of making provision for lewdness throughout his whole empire. As to the ecclesiastical laws, there is no crime they punished more severely than this. As may be easily collected from the canons of the Council of Eliberis, one of which^k orders, "That if a father or a mother or any Christian exercise the trade of a pander, forasmuch as they set to sale the body of another, or rather their own, they shall not be received to communion, no not at their last hour." And another^l decrees, "That if a woman commit adultery by the consent of her husband, they shall be rejected even to the last." The reason of this is grounded upon what Tertullian^m observes of the law prohibiting fornication, that it equally forbids any one to be aiding or assisting, or conscious to another

ⁱ Justin. Novell. xiv. tot. p. 31.

^k Concil. Iliberrit. c. xii. (Labbé, vol. i. p. 972.) Mater, vel parens, vel quælibet fidelis, si lenocinium exercuerit; eo quod alienum vendiderit corpus, vel potius suum, placuit eas nec in fine accipere communionem.

^l Ibid. can. lxx. (Labbé, vol. i. p. 978.) Si cum conscientia mariti [conscio marito] fuerit mœschata uxor, placuit nec in fine dandam ei esse communionem.

^m Tertullian. de Idololatr. c. xi. (Paris. 1664. p. 90. D 10.) Nam quod mihi de stupro interdictum sit, aliis ad eam rem nihil aut operæ aut conscientie exhibeo. Nam quod ipsam carnem meam a lupanaribus segregavi, agnosco me neque lenocinium, neque id genus lucrum, alterius causa exercere posse.

in the practice of it. For what I may not do myself, I may not be instrumental to have it done by others. And therefore by the same reason that I keep my own body from the common stews, I own myself obliged neither to promote that infamous trade, nor raise any gain by or for others by such vile practices. Albaspinæus rightly observes¹ from the fore-mentioned canons, that this crime was esteemed greater than fornication and adultery itself: because adulterers were received to the peace of the Church after a certain term of penance, but this crime was denied communion to the very last.

SECT. XI.—*Of writing and reading lascivious Books.*

Another way of promoting uncleanness was the writing or reading lascivious or obscene books and plays, than which there is no greater incentive or provocation to impurity. And therefore as the ancients burned and abolished all sorts of heretical books, that they might not corrupt the faith; so they equally forbad the writing or reading all other pernicious books, which tended to debauch the morals of Christians, and severely censured the authors of them, if any such were composed by Christian writers. Socratesⁿ says, Heliodorus a Thessalian bishop, when he was a young man, wrote a lascivious romance called his Ethiopics; which, others^o tell us, occasioned a censure to be passed upon him, when he was

¹ Albaspin. in can. xii. Concil. Illiberitan. Gravius puniuntur lenones, et earum turpitudinum artifices, quam ipsamet adulteria et virginum stuprationes. Nam Zephyrini edicto, mœchiæ et fornicationi pœnitentia functis, veniam in morte, vel post longam pœnitentiam, concessam legimus: hoc vero canone ea ipsa moribundis lenonibus, et parentibus qui quæstum ex filiarum stupro fecerint, denegatur: cujus severioris disciplinæ hanc rationem addunt, quod suum (ad parentes id refertur) aut alienum vendiderint corpus, hoc est, pessumdederint, perdidierint, et libidini manciparint. (Labbé, vol. i. p. 992.)

ⁿ Socrat. lib. v. c. xxii. (Vales. Amstel. 1695. p. 235. D.) 'Αλλὰ τοῦ μὲν ἐν Θεσσαλίᾳ ἑθους, ἀρχηγὸς Ἡλιόδωρος Τρίκης τῆς ἐκεῖ γενόμενος, οὐ λέγεται ποιήματα ἑρωτικά βιβλία, ἀ νέος ὡν ἔταξε καὶ Αἰθιοπικά προσηγόρευσε.

^o Niceph. Histor. lib. xii. c. xxxiv. Οὐ [Ἡλιοδώρου] ποιήματα ἑρωτικά εἰσέτι νῦν περιφέρεται, ἀ νέος ὡν συνετάξατο, Αἰθιοπικά προσαγορεύσας αὐτά· νῦν δὲ καλοῦσι ταῦτα Χαρίκλειαν· δι' ἃ καὶ τὴν ἐπισκοπὴν ἀφγρήθη· ἐπειδὴ γὰρ πολλοῖς τῶν νέων κινδυνεύειν ἐκεῖθεν ἐπῆει, ἢ ἐγχώριος προσέταττε σύν-
οδος, ἢ τὰς βίβλους ἀφανίζων, καὶ πυρὶ δαπανᾶν, ὑπαναπτύσας τὸν ἑρωτα, ἢ μὴ χρῆναι ἐραῶσθαι τοιαῦτα συνθίμενον· τὸν δὲ μάλλον εἰλίσθαι τὴν ἱερωσύνην λιπεῖν ἢ ἐκ μέσου τιθῆναι τὸ σύγγραμμα.

bishop, and he was deprived of his bishopric because he would not recant it. For the same reason they utterly discouraged the reading of such heathen books as were stuffed with impurities; and some canons were made to prohibit the clergy especially from conversing with such writers: of which I have given a more ample account¹ in a former book.

SECT. XII.—*Frequenting of the Theatre and Stage-plays forbidden upon this account.*

They are equally severe in their invectives against all frequenters of the theatre and public stage-plays, upon the same account: because these were the great nurseries of impurity, where incest and adultery were represented with abominable obscenity, and in a manner acted over again, to corrupt the spectators by their contagion and example. “Here,” as Cyprian says, “adultery was learned^p by seeing it acted. Provocations to vice were so much the stronger, because they were recommended by the authority of great examples. The matron which perhaps came chaste to the theatre, returned back with a contrary disposition. The very gestures of the actors were enough to corrupt men’s morals, being fomenters of vice, and purveyors of nutriment for corrupt distempers. Venus they represented in all her lewd behaviour, Mars

¹ Lib. vi. cap. iii. § iv. vol. ii. p. 145.

^p Cyprian. ad Donat. (Oxon. 1682. p. 6.) (p. 4, edit. Amstelod.) Adulterium discitur, dum videtur; et lenocinante ad vitia publicæ auctoritatis malo, quæ pudica fortasse ad spectaculum matrona processerat, de spectaculo revertitur impudica. Adhuc deinde morum quanta labes! quæ probrorum fomenta? quæ alimenta vitiorum, histrionicis gestibus inquinari? videre contra fœdus jusque nascendi patientiam incestæ turpitudinis elaboratam? Evirantur mares, honos omnis et vigor sexus enervati corporis dedecore mollitur, plusque illic placet, quisquis virum in feminam magis fregerit; in laudem crescit ex crimine, et peritior quo turpior judicatur. Spectatur hic, proh nefas! et libenter; quid non possit suadere, qui talis est? Movet sensus, mulcet adfectus, expugnat boni pectoris conscientiam fortiolem: nec deest probri blandientis auctoritas, ut auditu molliore perniciēs hominibus obrepat. Exprimunt impudicam Venerem, adulterum Martem; et Jovem illum suum, non magis regno quam vitiis principem, in terrenos amores cum ipsis suis fulminibus ardentem, nunc in plumis oloris albescere, nunc aureo imbre defluere, nunc in puerorum pubescentium raptus ministris avibus prosilire. Quære jam nunc, an possit esse qui spectat, integer, vel pudicus. Deos suos, quos venerantur, imitantur: fiunt miseris et religiosa delicta.

as an adulterer: and their Jupiter no less a prince in his vices than in his kingdom, burning with his thunderbolts in earthly amours; sometimes shining in the plumes of a swan, sometimes descending in a golden shower, and sometimes sending out his eagles to fetch him a beautiful Gany-mede. Consider, now, whether a spectator can be innocent and chaste in viewing such sights as these. Men imitate the gods which they worship; and by this means become more wretched, because their very vices are consecrated into religion." He speaks this against the heathen spectators, but the main of his arguments will equally hold against the Christian. For the theatres, by reason of their impurities, were places of unavoidable temptation; the devil's own ground, 'his own property and possession,' as Tertullian^q says, the devil once called them, when being asked by a Christian exorcist, in the case of a woman who was seized by him at the theatre, how he durst presume to possess a Christian, he answered confidently, 'I had a right to do it, for I found her upon my own ground.' Tertullian^r says further, "That the theatre is properly the temple of Venus upon a double account; both because it was the school of lasciviousness; and because, when Pompey built his famous theatre, he was forced to set the temple of Venus upon it, for fear the Roman censors should demolish it, as they had done some others, in their concern for the morals of the people, which they were sensible were corrupted by the poison and infection of the theatres, which were nothing else (in the opinion of the more grave and sober Romans) but the citadel and fortress of all impure and lascivious practices." For this reason, therefore, as well as because they

^q Tertull. de Spectac. c. xxvi. p. 83. In meo eam inveni.

^r Ibid. c. x. (Paris. 1664. p. 76. B 7.) Theatrum proprie sacrarium Veneris est. Hoc denique modo id genus operis in sæculo evasit. Nam sæpe censors nascentia cum maxime theatra destruebant, moribus consulentes, quorum scilicet periculum ingens de lascivia providebant, ut jam hinc ethnicis in testimonium cedat sententia ipsorum nobiscum faciens, et nobis in exaggerationem disciplinæ etiam humanæ prerogativa. Itaque Pompeius Magnus, solo theatro suo minor, ruinas, quum illam arcem omnium turpitudinum extruxisset, veritus quandoque memoriæ suæ censoriam animadversionem, Veneris ædem superposuit, et ad dedicationem edicto populum vocans, non theatrum, sed Veneris templum nuncupavit, Cui subjecimus, inquit, gradus spectaculorum. Ita damnatum et dam-nandum opus templi titulo prætexit, et disciplinam superstitione delusit.

were accompanied with idolatrous rites, Tertullian and all the ancients declaim against them, and forbid Christians to frequent them, under pain of being deemed guilty of all the impurities of the place, and partakers of all the lewdness committed in them. As this was one part of their baptismal renunciation, where the impurities of the stage were virtually renounced in renouncing the pomps¹ of Satan; so it was necessary for a Christian to abstain from them as a spectator, for fear of losing his title to Christian communion, and being accounted a renegado to his first profession. It is certain it was so in the time of Tertullian, and when the author of the Constitutions^a drew up his Collections. But in after ages, because the civil law allowed the interludes of the theatre for the diversion of the people, when they were purged from idolatry, but not from lewdness; the fathers contented themselves to declaim against them with sharp invectives, and correct that reigning humour by serious admonitions, which the iniquity of the times would not suffer them to do by the more exact and primitive discipline of the Church. Any one that will consult St. Chrysostom's^t

¹ Lib. xi. c. vii. § ii. vol. iii. p. 525.

^a Vid. Constit. lib. viii. c. xxxii. (Labbé, vol. i. p. 496. E 6.) Τῶν ἐπὶ σκηνῆς ἐάν τις προσέῃ ἀνὴρ, ἢ γυνή, ἢ ἡνίοχος, ἢ μονομάχος, ἢ σταδιοδρόμος, ἢ λουδεμιστής, ἢ Ὀλυμπικός, ἢ χοραύλης, ἢ κιθαριστής, ἢ λυριστής, ἢ ὁ τὴν ὄρχησιν ἐπιδεικνύμενος, ἢ κάπηλος, ἢ παυσάσθωσαν, ἢ ἀποβαλλέσθωσαν.

^t Chrysost. Homil. vi. in Matth. p. 76. tot. et p. 77, edit. Francof. 1697. Hom. lxxiii. de S. Barlaam, tom. i. p. 893. D 11. (p. 789, edit. Francof.) Οὐχ ὁρᾷτε τοὺς ἀπὸ τῶν θεάτρων καταβαίνοντας μαλακωτέρους γινόμενους; τὸ δὲ αἶτιον, ὅτι μετὰ σπουδῆς τοῖς ἐκεῖ γινόμενοις προσέχουσι· καὶ γὰρ ὀφθαλμῶν περιστροφάς, καὶ χειρῶν περιδονήσεις, καὶ ποδῶν κύκλους, καὶ πάντων τῶν ἐν τῇ διαστροφῇ τοῦ λυγισθέντος σώματος φανέντων εἰδώλων τοὺς τύπους ἐναποθέμενοι ταῖς ψυχαῖς ἀπέρχονται. πῶς οὖν οὐκ ἄτοπον, ἐκείνους μὲν ἐπὶ λύμῃ τῆς αὐτῶν ψυχῆς τοσαύτην ἐπιδείκνυσθαι πρόνοιαν, καὶ μνήμην ἐνδιάθετον ἔχειν τῶν ἐκεῖ γινόμενων· ἡμᾶς δὲ, κ. τ. λ.—Homil. xv. ad Popul. Antiochen. ibid. p. 197. A 10. (p. 176, edit. Francof.) Τὸ εἰς τὰ θεάτρα ἀναβαίνειν πάλιν καὶ ἔππων ἀμύλλας θεωρεῖν, καὶ κυβεῖν, οὐ δοκεῖ πλημὲλημα τοῖς πολλοῖς ὡμολογημένον εἶναι· μυρία δὲ εἰς τὸν βίον εἰσάγει κακά· καὶ γὰρ ἢ ἐν τοῖς θεάτροις διατριβὴ πορνείαν, ἀκολασίαν, καὶ πᾶσαν ἀσελγίαν ἔτεκε, καὶ ἡ τῆς ἀμύλλης τῶν ἔππων θεωρία μάχας, λαιδορίας, πληγὰς, ἕβρεις, ἀπεχθείας διηνεκεῖς ἐπήγαγε· καὶ ἡ περὶ τὸ κυβεῖν σπουδὴ βλασφημίας, ζημίας, ὀργὰς, λαιδορίας, μυρία ἕτερα τούτων δεινότερα πολλάκις εἰργάσατο· μὴ τοῖνυν ἀμαρτήματα φεύγωμεν μόνον, ἀλλὰ τὰ δοκούντα μὲν ἀδιάφορα εἶναι, κατὰ μικρὸν δὲ καὶ ἡμᾶς εἰς τὰς πλημμελείας ἄγοντα ταῦτα.

or Cyril's Catechisms,^u or Salvian,^x may find this observation true, that though the canons did not now make it peremptory excommunication for a man to frequent the theatre, yet the fathers inveighed as sharply as ever against it, for the impurity and corruption of morals that were the natural consequences of it. There was anciently a famous sight or play, called Maiuma; a considerable part of which diversion was, to see infamous strumpets swim naked in the water. . Whence learned men observe, it had its name: for Maiuma, in the Syriac tongue, signifies water. Gothofred^y observes, and Pagi^z after him, that the people were so eagerly bent and inclined to this obscene diversion, that though there were good reasons for abolishing it, yet the Imperial laws, from Constantine to Arcadius, varied eight times about it, sometimes allowing and sometimes restraining it; till at last Arcadius, who had at first permitted it, revoked his licence, and finally abolished it;

^u Cyril. Catech. myst. i. n. iv. (Paris. 1609. p. 510.) *Φεῦγε καὶ τὰς ἱπποδρομίας, τὸ ἐμμανὲς θέαμα, καὶ ψυχὰς ἐκτραχηλίζον· ταῦτα γὰρ πάντα πομπή ἐστι τοῦ διαβόλου.*

^x Salvian. de Provident. lib. vi. p. 197, edit. Oxon. 1633. 8vo. (p. 197—201, edit. Rittershus. Norib. 1623. 8vo.)

^y Gothofred. comment. in cod. Theod. lib. xv. tit. vi. de Maiuma. leg. ii. (Lugdun. 1665. vol. v. p. 358.) *Spectaculum, seu Maiumæ lætitia, per eandem præfecturam prætorianam Orientis, provincialibus sub certa lege antea adempta, redditur leg. i. anno Domini 396.; mox absolute denegatur an. 399., hac leg. ii. Idque intra quatuor ferme annorum spatium: Redditur, inquam, leg. i. quum antea (ut puto a Constantio Imp. rursus a Theodosio M. patre, castissimo principe) prohibita fuisset: sub hac tamen conditione redditur, ut honestas et verecundia castis moribus perseveraret, id est, ut fœditas omnis et procacia ab ea abesset. Hoc scilicet temperamentum Arcadio 'clementiæ' titulo seu clementer adhibere primum visum fuit; anno Dom. 396. At enim, quum rebus ipsis postea comperisset, procacem hanc licentiam et fœditatem ab ipsa Maiumæ celebritate seu spectaculo sejugari non posse, triennio, et quod excurrit, post, ad superiorum principum Christianorum ingenium rediit, ea penitus denegata: leg. ii. hoc tit. aliis vero ludicris et honestis artibus concessis, quibus abunde provinciales tristitia sua consolari possent.*

^z Pagi Critic. in Baron. (Antverp. 1777. vol. ii. ann. cccxcix. n. v. p. 27.) Gothofredus in commentar. leg. ii. cod. Theodos. ubi varia habet de Maiuma, observat ejus mentionem non occurrere, nisi ab eo tempore, quo Christiani imperatores exstiterent, tantumque ejus retinendæ populis studium fuisse, contra vero tam justas ejus coercendæ, mox et prohibendæ, iisdem imperatoribus causas visas esse; ut a Constantino Magno, quo imperante Maiumam celebratam verosimile, ad Arcadium, octies hac parte variatum fuerit, ea modo legibus permissa, modo iisdem vetita.

allowing other sports for the diversion of the people, but denying them this, as a base and unseemly^a spectacle. And under that character, St. Chrysostom^b and others, with their utmost force and vehemence, declaim against it.

SECT. XIII.—*As also all excess of Riot and Intemperance for the same reason.*

For the same reason they made sharp invectives against luxury, and riot, and intemperance, not only as they were crimes in themselves, but as they were the avenues and inlets to the greater sins of uncleanness. And therefore, though they did not punish every single act of drunkenness and excess with excommunication, yet they thought it proper to bring habits and customs of such sins under public discipline and censure. It is an observation of Tertullian,^c and a very true one, “That drunkenness and lust are two devils combining and conspiring together. Bacchus and Venus are nearly allied, and too well agreed.”—“Drunkenness,” says one of the ancient canons,^d “is the fomentor and nurse of all vices.” And therefore it was ordered, that if any clergyman, of the lowest degree, was found guilty of any single act of it, he should either be suspended from communion for thirty days, or be subject to corporal punishment for his offence. This we find decreed in the Council of Agde and Vannes, as a standing rule in the French Church. And there goes a decree under the name of Pope Eutychian,^e which makes the habit of drunkenness matter of excommunication to a layman also, till he break off the custom by reformation and amendment.

^a Cod. Theod. lib. xv. tit. vi. de Maiuma, leg. ii. Maiumam foedum atque indecorum spectaculum denegamus. (Vol. v. p. 358.)

^b Chrysost. Homil. vii. in Matth. p. 71. (p. 85. seqq. edit. Francof.)

^c Tertull. de Spectac. c. x. (p. 77. C 5.) Veneri et Libero convenit: duo ista daemonia conspirata et conjurata inter se sunt, ebrietatis et libidinis.

^d Concil. Venet. c. xiii. Ebrietas omnium vitiorum fomes et nutrix est; . . . itaque clericum, quem ebrium esse constiterit, aut triginta dierum spatio a communione statuimus submovendum, aut corporali subdendum esse supplicio. Vid. Concil. Agathens. c. xli. iisdem verbis. (Labbé, vol. iv. p. 1390.)

^e Eutychian. Decret. ap. Crab. tom. i. p. 280. Qui ebrietatem vitare noluerit, excommunicandum esse decrevimus, usque ad congruam emendationem. (Labbé, vol. i. p. 922.)

But it must be owned this vice was sometimes so general and epidemical, that the numbers of transgressors made the exactness of discipline impracticable. St. Austin^f complains and laments, that it was so in Afric in his time. Though the apostle had condemned three great and detestable vices in one place, viz., rioting and drunkenness, chambering and wantonness, strife and envying; yet matters were come to that pass with men, that two of the three, drunkenness and strife, were thought tolerable things, whilst wantonness only was esteemed worthy of excommunication; and there was some danger that, in a little time, the other two might be reputed no vices at all. For rioting and drunkenness was esteemed so harmless and allowable a thing, that men not only practised it in their own houses every day, but in the memorials of the holy martyrs on solemn festivals, and that in pretended honour to the martyrs also; which was a thing that every one must needs lament, who did not look with carnal eyes upon it. It is plain St. Austin thought an habitual course of rioting and drunkenness a crime deserving excommunication, as well as fornication and adultery; but yet in regard to the great numbers that were given to this sin, his advice to Aurelius, the metropolitan of Afric, is,^g “That it should be cured not with asperity and roughness, nor in the imperious way, but by teaching rather

^f August. Epist. lxiv. ad Aurelium. (Bened. 1700. vol. ii. p. 21. B 10.) Quum apostolus tria breviter genera vitiorum detestanda et vitanda uno in loco posuerit, de quibus innumerabilium peccatorum exsurgit seges, unum horum, quod secundo loco posuit, acerrime in ecclesia vindicatur: duo autem reliqua, id est primum et ultimum, tolerabilia videntur hominibus, atque ita paullatim fieri potest, ut nec vitia jam putentur. Ait enim vas electionis, “Non in comessationibus et ebrietatibus, non in cubilibus et impudiciis, non in contentione et dolo; sed induite vos Dominum Jesum Christum; et carnis curam ne feceritis in concupiscentiis.” 3. Horum ergo trium, cubilia et impudiciis tam magnum crimen putantur, ut nemo dignus non modo ecclesiastico ministerio, sed ipsa etiam sacramentorum communione videatur, qui se isto peccato maculavit. Et recte omnino. Sed quare solum? Comessationes enim et ebrietates ita concessæ et licitæ putantur, ut in honorem etiam beatissimorum martyrum, non solum per dies solemnes, (quod ipsum quis non lugendum videat, qui hæc non carnis oculis inspicit?) sed etiam quotidie celebrentur.

^g Augustin. ibid. (p. 21. F 7.) Non aspere, quantum existimo, non duriter, non modo imperioso ista tolluntur: magis docendo quam jubendo, magis monendo quam minando. Sic enim agendum est cum multitudine: severitas autem exercenda est in peccata paucorum.

than commanding, and by admonition rather than commination. For so we must deal with a multitude; but the severity of discipline is only to be exercised upon sins, when the number of sinners is not very great." So that we may conclude that rioting and drunkenness was one of those great crimes, for which men were put to do public penance in the Church, except when the multitude and combination of sinners made it not feasible, and obliged the Church to take other measures to correct it.

SECT. XIV.—*And promiscuous Bathing of Men and Women together.*

It must also be noted upon this head, that as a preservative of modesty and chastity, both the canon and civil law prohibited men and women to go promiscuously into the same baths together. "Let not a woman go to wash in the same bath with men," says the author^h of the Constitutions. And the Council of Laodicea,ⁱ "Neither clergyman, nor ascetic, nor layman, shall wash in the same bath with women: for this is extremely scandalous, and culpable even among the Gentiles." The Council of Trullo^k repeats this canon word for word; and then adds in the close, "If any clergyman be found guilty of this practice, he shall be deposed; if a layman, let him be excommunicated." The observation made in these canons, 'That this was a scandalous crime even among the heathens,' is confirmed out of the old Roman laws and writers. Varro^l says, "The ancient baths were divided into two distinct buildings or apartments, one for the men, and the other for the women to wash in." And the same account is given by Vitruvius^m and Charisius, and other writers. And when the

^h Constit. lib. i. c. ix. (Labbé, vol. i. p. 221.) 'Ανδρόγυνον γυνή πιστή μη λουέσθω.

ⁱ Concil. Laodic. can. xxx. (Labbé, vol. i. p. 1502.) "Οτι οὐ δεῖ ἱερατικοῦς, ἢ κληρικοῦς, ἢ ἀσκητάς, ἐν βαλανείῳ μετὰ γυναικῶν ἀπολούεσθαι, μηδὲ πάντα Χριστιανόν, ἢ λαϊκόν· αὕτη γὰρ πρώτη κατάγνωσις παρὰ τοῖς ἔθνεσιν.

^k Concil. Trullan. c. lxxvii. (Labbé, vol. vi. p. 1175.) Εἰ δὲ τις ἐπὶ τοῦτοις φωραθείη, εἰ μὲν κληρικὸς εἴη, καθαυρεῖσθω· εἰ δὲ λαϊκὸς, ἀφοριζέσθω.

^l Varro de Lingua Latin. lib. viii. p. 115. Publice bina conjuncta ædificia lavandi causa; unum ubi viri, alterum ubi mulieres, lavarentur.

^m Vitruvius de Architect. lib. v. c. xx. Item est animadvertendum, uti cal-

degeneracy of the following ages began to confound this distinction, Spartianⁿ says, Adrian made a law against promiscuous bathing. And Julius Capitolinus^o says the same of Antoninus Philosophus. Nay, the old Romans were so careful to preserve modesty in this matter, that Tully^p says, "They did not allow a son to bathe with his father, nor a son-in-law with his father-in-law: nature itself teaching men that there was a decency to be observed in making such distinctions." And the same thing is related by Valerius Maximus,^q and much commended by St. Ambrose.^r Now the case standing thus even among the heathens, it would have been extremely scandalous for the Christians to have permitted promiscuous bathing; and therefore they prohibited it by their ecclesiastical laws under the severe penalty of excommunication. And the Imperial^s laws of Justinian carried the matter a little further. For among other lawful causes of divorce, authorizing a man to put away his wife, he allows this to be one, if a woman be so intemperate and luxurious as to go into a common bath with men. Private writers declaim much against it. Epipha-

daria muliebria viriliaque conjuncta et in iisdem regionibus sunt collocata. Sic enim efficitur, ut in vasaria ex hypocausto communis sit usus eorum utriusque.—Charis. Grammatic. lib. i. citante Savarone in notis ad Sidon. Apoll. lib. ii. epist. ii. p. 116. (Not. Verba Charisii non exhibet.)—Dempster, Paralipom. ad Rosini Antiquitates Rom. lib. i. c. xiv. (p. 142, edit. Colon. 1662.) Promiscua non fuisse balnea, sed viros sua a mulieribus discreta separataque habuisse, notissimum. etc.

ⁿ Spartian. vit. Adrian. p. 25. Lavacra pro sexibus separavit.

^o Jul. Capitol. vit. Antonin. p. 90. Lavacra mixta submovit.

^p Cic. de Offic. lib. i. n. exxix. (Zumpt, 1838. i. 35. 13.) Nostro quidem more cum parentibus puberes filii, cum soceris generi non lavantur. Retinenda est igitur hujus generis verecundia, præsertim ipsa natura magistra et duce.

^q Valer. Max. lib. ii. c. i. n. 7. Aliquandiu nec pater cum filio pubere, nec socer cum genero, lavabatur.

^r Ambros. de Offic. lib. i. c. xviii. (Paris. 1836. vol. iii. p. 151.) Mos vetus et in urbe Roma et in plerisque civitatibus fuit, ut filii puberes cum parentibus, vel generi cum soceris non lavarent, ne paternæ reverentiæ auctoritas minueretur: licet plerique se et in lavacro quantum possunt tegant; ne vel illic ubi nudum totum est corpus, hujusmodi intacta sit portio.

^s Cod. Justin. lib. v. tit. xvii. de Repudiis, leg. xi. Vide Novell. xxii. c. xvi. Καὶ τοσαῦτα τὰ τῆς ἀκολασίας ἐστίν, ὥς καὶ ἀνδράσι κατὰ τρυφῆς πρόφασιν συλλογίσθαι . . . ἄδεια δίδονται παρ' ἡμῶν τοῖς ἀνδράσι, πέμπειν αὐταῖς ῥεπούδια, κ. τ. λ. (p. 47.)

nius^t condemns it in the Jews; and Cyprian not only^u censures this, but many other acts of immodesty in virgins, as painting, and over-nice dressing, and appearing unveiled, (against which also Tertullian^x has a whole discourse,) with some other indications of a loose and unguarded mind, which need not here be particularly mentioned or further pursued. I purposely also pass over the scandalous practice of some, who entertained their Agapetæ, or love-sisters, as they called them, with professions of the strictest innocence and virtue; because I have formerly had occasion to show with what severity the ancient rules¹ condemned this as a most suspicious and intolerable practice, and perfectly against the laws of the Gospel, which oblige men not only to regard the preservation of their innocence, but their good name; 'To mind things that are honest,' that is, becoming and honourable, 'and of good report; to provide for honest things, not only in the sight of God, but also in the sight of men; and to abstain from all appearance of evil.' In regard to which precepts the ancient rules not only censured open fornication and adultery, but all such indecent actions as had any tendency toward them, or were justly liable to suspicion, and gave occasion to the adversary to speak reproachfully of that holy religion, the honour of which Christians were obliged to maintain in all

^t Epiphan. Hæres. xxx. Ebionit. n. vii. (Paris. 1662. vol. i. p. 131. C3.) 'Ανδρόγυνα ἐκείσε λούονται· κατὰ συγκευρίαν δὲ γυνή τις ἐλευθέρα ἔτυχεν ἐν τῷ λουτρῷ, κάλλει διαπρέπουσα εὐφορμίας· καὶ ὁ νεώτερος θελχθεὶς τῷ ἔθει τῆς αὐτοῦ ἀκολασίας, διῶν ἐν τῷ ἁέρι, παρενέτριψεν αὐτοῦ τὴν πλευρὰν τῇ πλευρᾷ τοῦ γυναικίου· ἣ δὲ ἑαυτὴν ἐσφραγίσασα εἰς ὄνομα Χριστοῦ, οἷα δὲ Χριστιανὴ οὔσα, ἥ οὔτε ἀνάγκη ἦν παρανομεῖν, καὶ ἀνδρογύνως λούεσθαι.

^u Cyprian. de Habitu Virginum, (Oxon. 1682. p. 100.) (p. 73, edit. Amstelod.) Quid vero, quæ promiscuas balneas adeunt, quæ oculis ad libidinem curiosis, pudori ac pudicitiae corpora dicata prostituunt, quæ quum viros, atque a viris nudæ, vident turpiter, ac videntur, nonne ipsæ illecebram vitiiis præstant? nonne ad corruptelam et injuriam suam desideria præsentium sollicitant et invitant? Viderit, inquis, qua illuc mente quis veniat: mihi tantum reficiendi corpusculi cura est et lavandi.—Non te purgat ista defensio; nec lasciviae et petulantiae crimen excusat. Sordidat lavatio ista, non abluit; nec emundat membra, sed maculat. Impudice tu neminem conspicias, sed ipsa conspiceris impudice; oculos tuos turpi oblectatione non polluis; sed dum oblectas alios, ipsa pollueris.

^x Tertull. de Velandis Virginibus.

¹ Lib. vi. cap. ii. § xiii. vol. ii. p. 133.

purity, as well in word, as outward conversation; avoiding this, that no one should blame them, and managing their whole deportment with innocence and prudence, to answer those great precepts of the Gospel, "Give no offence, neither to the Jew nor to the Gentile, nor to the Church of God:" and, "So let your light shine before men, that they may see your good works, and glorify your Father which is in heaven."

SECT. XV.—*And promiscuous and lascivious Dancing, wanton Songs, &c.*

For the same reason they prohibited all promiscuous and lascivious dancing of men and women together. The Council of Laodicea⁷ forbids it under the name of βαλλίζειν, which some interpret playing on cymbals or other musical instruments, but more commonly it is understood by learned⁸ men as a prohibition of wanton dancing at marriage-feasts, against which there are several other canons of the ancient councils, and severe invectives of the fathers. The third Council of Toledo⁹ forbids it under the name of Ballimathix, which they

⁷ Concil. Laodic. c. liii. (Labbé, vol. i. p. 1505.) "Οτι οὐ δεῖ Χριστιανὸς εἰς γάμους ἀπερχομένους βαλλίζειν ἢ ὀρχεῖσθαι, ἀλλὰ σεμνῶς δειπνεῖν ἢ ἀριστᾶν, ὡς πρέπει Χριστιανοῖς.

⁸ Suicer. Thesaur. Eccles. voce βαλλίζειν, tom. i. p. 620. Βαλλίζειν proprie est 'jacere,' vel 'jactare.' Hinc βαλλίζειν χεῖρας et βάλλειν χεῖρας, 'manus jactare:' quod saltantes faciunt. 'Manus' enim 'jactare,' 'saltare' est. Ovidius:

'Et faciles jactant ad sua verba manus.'

Simpliciter vero etiam βαλλίζειν et βάλλειν pro 'saltare' ponitur. Glossæ: Βαλλίζω, 'ballo.' Βαλλίζειν Suidas interpretatur, τὰ κύμβαλα κτυπεῖν, καὶ πρὸς ἐκείνων ἦχον ὀρχεῖσθαι. 'Cymbala pulsare, et ad eorum sonum saltare.' Ita etiam interpretatur Zonaras ad can. liii. Laodicensem, etc.—Rivet. in Decalog. p. 338. (tom. i. Opp. p. 1409, edit. Roterod. 1651. folio.) Quum Paulus Apostolus, Rom. xii. 13. monet, ut εὐσχημόνως περιπατήσωμεν, μὴ ἐν κώμοις, καὶ μέθαις; et κῶμος juxta Suidam idem sit, quod μῆθη καὶ ὁ ὀρχισμός:.. sequitur etiam a Paulo saltationes illas fuisse Christianis prohibitas. Unde et concilii Laodicensi canon xiii. decernit, ὅτι οὐ δεῖ, κ. τ. λ. ubi vetus interpres: 'Non oportet Christianos ad nuptias euntes, vel ballare, vel saltare, sed caste cenare vel prandere, sicut competit Christianis.' Stuckius, Antiquit. Convival. lib. iii. c. xxi. Laodicense concilium, quod celebratum fuit anno 364. choreas in nuptiis prohibet, ejus hæc sunt verba: 'Non convenit Christianis hominibus saltare in suis nuptiis. Prandeant et coenant graviter et moderate, gratias Deo agentes de nuptiarum beneficio.'

⁹ Concil. Tolet. III. in edicto regis Reccaredi. (Labbé, vol. v. p. 1009.) Quod vallemantix [allemandix, gallemanchiæ, ballimathix] et turpia cantica prohibenda sint a sanctorum solemnitatibus.

interpret wanton dances, joining them with lascivious songs, the use of which they complain of as an^b irreligious custom prevailing in Spain among the common people on the solemn festivals, which they order to be corrected both by the ecclesiastical and secular judges. The Council of Agde^c forbids the clergy to be present at such marriages, where obscene love-songs were sung, or obscene motions of the body were used in dancing. And by another canon,^d "If they use any scurrility or filthy jesting themselves, they are to be removed from their office." The like canons occur in the Council of Lerida^e and some others, forbidding to sing or dance at marriages, but feast with modesty and gravity, as becomes Christians. St. Ambrose excellently describes the immodesty of this sort of dancing used by drunken women :^f "They lead up dances (says he) in the streets unbecoming men in the sight of intemperate youths, tossing their hair, dragging their garments flying open, with their arms uncovered, clapping their hands, dancing with their feet, loud and clamorous in their voices, irritating and provoking youthful lusts by their theatrical motions, their petulant eyes, and unseemly antics and fooleries. Meanwhile a crowd of youth stands gazing upon them, and so it is a miserable spectacle indeed."

^b Ibid. c. xxiii. (Labbé, vol. v. p. 2014.) Irreligiosa consuetudo exterminanda est, quam vulgus per sanctorum solemnitates agere consuevit; ut populi, qui debent officia divina attendere, saltationibus et turpibus invigilent canticis, non solum sibi nocentes, sed et religiosorum officiis perstreptentes. Hoc etenim ut ab omni Hispania depellatur, sacerdotum et iudicum a concilio sancto curæ committatur.

^c Conc. Agathens. c. xxxix. (Labbé, vol. iv. p. 1390.) Nec his coetibus admisceantur, ubi amatoria cantantur et turpia, aut obsceni motus corporum choris et saltibus efferuntur.

^d Ibid. c. lxx. (Labbé, vol. v. p. 1394.) Clericum scurrilem et verbis turpibus joculatorem ab officio retrahendum.

^e Conc. Ilerdens. ap. Crab. tom. i. p. 1031. (Labbé, vol. iv. p. 1619. C.) Quod non oporteat Christianos euntes ad nuptias plaudere vel saltare, &c.

^f Ambros. de Elia et Jejunio c. xviii. (tom. i. Opp. p. 539, ed. Paris. 1642.) Illæ in plateis, inverecundos viris, sub conspectu adolescentulorum, intemperantium choros ducunt, jactantes comam, trahentes tunicas, scisse amictus, nudæ lacertos, plaudentes manibus, saltantes pedibus, personantes vocibus, irritantes in se juvenum libidines motu histrionico, petulanti oculo, dedecoroso ludibrio. Spectat corona adolescentum, et fit miserabile theatrum.

St. Chrysostom^s has abundance to the same purpose, particularly in one of his homilies¹ he declaims against it, as one of those pomps of Satan which men renounced in their baptism. He says, "The devil is present at such a time, being

^s Chrysost. Homil. xlviii. in Genes. p. 680. D 5. (p. 549, edit. Francf.) Ἐνταῦθα σκόπει μοι, ἀγαπητέ, πῶς οὐδαμοῦ τὰ περιττὰ ταῦτα καὶ ἀνόνητα, οὐδαμοῦ πομπὴ διαβολικὴ, οὐδαμοῦ κύμβαλα καὶ αὐλοὶ καὶ χορεῖαι, καὶ τὰ σατανικὰ ἐκεῖνα συμπόσια, καὶ αἱ λοιδορίαι αἱ πάσης ἀσχημοσύνης γέμουσαι, ἀλλὰ πᾶσα σεμνότης, πᾶσα σοφία, πᾶσα ἐπιείκεια. εἰσῆλθε δέ, φησιν, Ἰσαὰκ εἰς τὸν οἶκον τῆς μητρὸς αὐτοῦ, καὶ ἔλαβε τὴν Ῥεβέκκαν, κ. τ. λ. ταύτην μυμείσθωσαν αἱ γυναῖκες· τοῦτον ζηλοῦντωνσαν ἄνδρες· οὕτω τὰς νύμφας ἀγαγίσθαι σπουδαζέτωσαν. τίνος γὰρ ἔνεκεν, εἰπέ μοι, ἐξ ἀρχῆς καὶ ἐκ προοιμίων κηλίδων πληρῶσαι συγχωρεῖς τῆς κόρης τὰς ἀκοάς διὰ τῶν αἰσχυρῶν φσμάτων, διὰ τῆς ἀκαίρου πόμπης ἐκείνης, κ. τ. λ.—Hom. lvi. in Genes. p. 743. D 7. (p. 606, edit. Francf.) Ἐίδες τὸ παλαιὸν, μεθ' ὅσης σεμνότητος τοὺς γάμους ἐπετέλουν· ἀκούσατε οἱ περὶ τὰς σατανικὰς πομπὰς ἐπτοημένοι, καὶ ἐξ αὐτῶν τῶν προοιμίων τὰ σεμνὰ τοῦ γάμου καταισχύνοντες. μήπου αὐλοὶ· μήπου χορεῖαι σατανικαί· κ. τ. λ.—Homil. xlix. in Matth. c. xiv. 6. p. 435. D. (p. 530, edit. Francf.) Ἀκούσατε τῶν παρθένων, μᾶλλον δὲ καὶ τῶν γεγαμημένων, ὅσαι ἐν τοῖς ἐτέροις γάμοις τοιαῦτα ἀσχημονεῖν καταδέχεσθε, ἀλλόμεναι καὶ πηδῶσαι, καὶ τὴν κοινὴν καταισχύνοσαι φύσιν. ἀκούσατε καὶ ἄνδρες, ὅσοι τὰ πολυτελῆ συμπόσια καὶ μέθης γέμοντα διώκετε· καὶ δέισατε τοῦ διαβόλου τὸ βάραθρον. κ. τ. λ.—Homil. xii. in Coloss. p. 1403, line 25. (p. 256, edit. Francf.) Πάντως ἀσχημον· καὶ αἰσχυρὸν, μαλακοὺς ἄνδρας καὶ ὀρχομένους, καὶ πᾶσαν τὴν πομπὴν τὴν σατανικὴν ἐπείσ· ἀγειν τῇ οἰκίᾳ.—1404, line 32. Ἄν τοίνυν, φησί, μήτε παρθένοι ὀρχῶνται, μήτε γεγαμημένοι, τίς ὀρχήσεται· μηδεῖς. ποῖα γὰρ ὀρχήσεως ἀνάγκη· ἐν τοῖς τῶν Ἑλλήνων μυστηρίοις αἱ ὀρχήσεις· ἐν δὲ τοῖς ἡμετέροις σιγὴ καὶ εὐκοσμία, αἰδῶς καὶ καταστολή.—Homil. xix. de Scortat. tom. v. p. 269. B. (p. 241, edit. Francf.) Γάμος πορνείας ἀναιρετικὸν φάρμακον. μὴ τοίνυν αὐτὸν ἀτιμάζωμεν ταῖς διαβολικαῖς πομπαῖς. . . Ἄν τοίνυν τὸν διάβολον ἀπελάσῃς, ἂν τὰ πορνικὰ ἔσματα, καὶ τὰ κεκλασμένα μέλη, καὶ τὰ ἀτάκτους χορεῖας, καὶ τὰ αἰσχυρὰ ῥήματα, καὶ τὴν διαβολικὴν πομπὴν, καὶ τὸν θόρυβον, καὶ τὸν κεχυμένον γέλωτα, καὶ τὴν λοιπὴν ἐξελάσῃς ἀσχημοσύνην, εἰσαγάγῃς δὲ τοὺς ἁγίους Χριστοῦ δούλους, καὶ ὁ Χριστὸς δι' αὐτῶν παρέσται πάντως μετὰ τῆς μητρὸς καὶ τῶν ἀδελφῶν.

¹ Chrysost. Homil. xlvii. in Julian. Mart. tom. i. p. 613. (p. 541, edit. Francf.) Ὅτι χοροὶ ἀνδρῶν αὐριον τὸ προάστειον καταλαμβάνουσιν· ἡ δὲ τῶν τοιούτων ὄψις καὶ τὸν βουλόμενον σωφρονεῖν ἀκούτα ὑπεξάγει πολλάκις πρὸς τὴν τῆς αὐτῆς ἀσχημοσύνης μίμησιν· καὶ μάλιστα ὅταν καὶ ὁ διάβολος μέσος ἐκείνοις παρῇ· καὶ γὰρ πάρεστιν ὑπὸ τῶν πορνικῶν φσμάτων, ὑπὸ τῶν αἰσχυρῶν ῥημάτων, ὑπὸ τῆς δαιμονικῆς πομπῆς καλούμενος.—Hom. xxiii. de Noviluniis: (tom. i. p. 264, edit. Francf.) Αἱ διαβολικαὶ παννυχίδες, αἱ γινόμεναι τήμερον, καὶ τὰ σκώμματα, καὶ αἱ λοιδορίαι, καὶ αἱ χορεῖαι αἱ νυκτεριναί, καὶ ἡ καταγέλαστος αὕτη κωμῳδία, παντὸς πολεμίου τὴν πόλιν ἡμῶν μᾶλλον ἐξηχμαλῶτισε.

called thither by the songs of harlots, and obscene words, and diabolical pomps used upon such occasions." And in another homily, speaking of the dancing of Herodias's daughter, he says, "Christians now do not deliver up half a kingdom, nor another man's head, but their own souls to inevitable destruction." By which it appears that these dancings were causes of great corruption, being mixed with ribaldry and lascivious songs and wanton gestures, which are incentives to impurity, and wholly unhinge the frame of the Christian temper: for which reason the ancients are so frequent and copious and severe in their invectives against them.

SECT. XVI.—*Also promiscuous Clothing.*

Some canons also severely condemn the promiscuous use of habits, or men and women interchanging their apparel peculiarly appropriated to their different sex. Eustathius taught his she-disciples to wear the habit of men under pretence of religion; and cut off their hair upon the like superstitious reason. But the Council of Gangra condemned both these practices, as great irregularities, confounding the order of nature, and laid the heavy censure of Anathema upon them. "If any woman," says one canon,^h "under pretence of leading an ascetic life, change her apparel, and instead of the accustomed habit of women take that of men, let her be anathema." And another,ⁱ "If any woman upon the account of an ascetic life cut off her hair, which God has given her as a memorial of subjection, let her be anathema, as one that annuls the decree of subjection." The foundation of this canon was the order given by St. Paul (1 Cor. xi.), "That a woman should not be shorn or shaven." And the foundation of the former canon was the rule given by God to the Jews (Deut. xxii. 5), "The woman shall not wear that which appertaineth to a man, neither shall a man put on a woman's

^h Concil. Gangrens. c. xiii. (Labbé, vol. ii. p. 419.) Εἰ τις γυνὴ διὰ νομιζομένην ἀσκησὶν μεταβάλλοιτο ἀμφίασμα, καὶ ἀντὶ τοῦ εἰωθότος γυναικείου ἀμφιάσματος, ἀνδρείον ἀναλάβοι, ἀνάθεμα ἔστω.

ⁱ Ibid. c. xvii. (Labbé, vol. ii. p. 424.) Εἰ τις γυναικῶν διὰ τὴν νομιζομένην ἀσκησὶν ἀποκείροιτο τὰς κόμας, ὡς ἔδωκεν ὁ Θεὸς εἰς ὑπόμνησιν τῆς ὑποταγῆς, ὡς ἀναλούσα τὸ πρόσταγμα τῆς ὑποταγῆς, ἀνάθεμα ἔστω.

garment : for all that do so, are abomination to the Lord thy God." Which the ancient writers, Cyprian,^k Tertullian,^l and many^m others, understand simply and universally of men and women interchanging habits, as was usually done in stage-plays, which they condemned for this reason as for many others. Some modern interpreters,ⁿ after Lyra^o and Maimonides,^p think there was a farther design in this precept, to prohibit the idolatry of the ancient Zabii; in whose magical books it was commanded that men should put on the women's painted garments, when they stood to worship before the star of Venus; and that women should put on the men's warlike habit and instruments, when they appeared before the star of Mars. But as the ancient Christian writers were not acquainted with

^k Cyprian. Epist. lxii. al. ii. ad Eucratium. (Oxon. 1682. p. 4.) (p. 171, edit. Amstelod.) Quum in lege prohibeantur viri induere muliebrem vestem et maledicti ejusmodi judicentur; quanto majoris est criminis, non tantum muliebria indumenta accipere; sed et gestus quoque turpes et molles et muliebres, magisterio impudicæ artis, exprimere.

^l Tertul. de Spectac. c. xxiii. (Paris. 1664. p. 82. D.) Quum in lege præscribit maledictum esse qui muliebribus vestiatur, quid de pantomimo judicabit, qui etiam muliebribus curatur?

^m Vide Prynne's Histriomastix.

ⁿ Spencer. de Legibus Hebr. (Cambr. 1727. lib. ii. c. xxix. § 1. p. 52.) (p. 600, edit. Lips. 1705.) Sentiunt alii, lege hac de sexus utriusque vestitu lata, Deum ritum aliquem Zabiorum religione sacrum vetuisse. Hi Maimonidem duces sequuntur, qui sic legem explicat, quasi cultus idololatricus et numinis alicujus (maris et foeminae) sacra, magis quam ipsa vestium commutatio vel sexus dissimulatio, hic prohiberetur. Auctoris ipsius verba, Latine reddita, sic sonant: Invenies, etc. (vide sub litt. (p)). Huic opinioni assensum præbeo.

^o Lyra in Deut. xxii. Non induetur mulier veste virili.] Quod exponunt doctores aliqui (et bene ut credo) quod hoc intelligitur de armis, quibus viri utuntur. Unde in Hebræo habetur: 'Non erit vas viri super mulierem.' Et accipitur heic vas, ut alibi in scriptura, pro armatura: nam I Reg. xx. dicitur de Jonatha, quod tradidit puero arma sua. In Hebræo habetur, Vasa sua. Prohibetur autem heic, quod mulier non portet arma viri: tum quia est indecens mulieri et præsumtuosum: tum quia pro tunc erat superstitiosum, quia gentiles mulieres in sacris Martis portabant arma viri: et in sacris Veneris viri portabant ornamenta mulierum et instrumenta earum, utpote colum, fusum, et similia.

^p Maimon. More Nevochim, part. iii. c. xxxvii. p. 447. Sic eadem causa subest in illo, quod dicitur, 'Ne mulier induat vestimenta viri,' etc. Invenies enim in libro שמירת מצות præcipi, ut mulier (legend. *vir*) gestet vestimentum muliebri coloratum, quando stat coram stella Veneris: similiter, ut mulier induat lorica et arma bellica, quando stat coram stella Martis.

this interpretation, we have reason to believe they took the rule in the common and vulgar sense, as an universal prohibition of men and women interchanging habits in all cases whatsoever: "It being a thing against the light of nature and the laws of reason," as Diogenes Laërtius^a words it in the life of Plato, "for any one to walk naked in public, or for a man to wear the woman's clothing." And for this reason, the ancients prohibited it, as an indecent and shameful thing, and as ministering occasion to uncleanness, even when it was used under pretence of greater strictness in religion.

SECT. XVII.—*And suspected Vigils, or Pernoctations of Women in Churches under pretence of devotion.*

And for the same reason, the ancient Council of Eliberis forbad women to keep private vigils or night-watches in the dormitories, or churches; because often under pretence of prayer and colour of devotion, secret^r wickedness had been committed by them. This seems to be the most rational account that can be given of the meaning and reason of this canon, that it was intended to cut off the occasion of lewdness and uncleanness, however artfully disguised under the mask of greater strictness in religion; there being nothing that could reflect more dishonour on the Christian name, than the allowing such opportunities of sin under the feigned pretence of piety and devotion in their churches.

^a Diogen. Laërt. lib. iii. Vita Plat. p. 131. (p. 217. num. 86. edit. Amstelod. 1692.) Νόμον διαίσεις δύο· ὁ μὲν γὰρ αὐτοῦ, γεγραμμένος· ὁ δὲ, ἀγραφος· ὃ μὲν ἐν ταῖς πόλεσι πολιτευόμεθα, γεγραμμένος ἐστίν· ὁ δὲ κατὰ ἔθνη γενόμενος, οὗτος ἀγραφος καλεῖται. ὅλον, τὸ μὴ γυμνὸν πορεύεσθαι εἰς τὴν ἀγοράν, μηδὲ γυναικεῖον ἱμάτιον περιβάλλεσθαι· ταῦτα γὰρ οὐδεὶς νόμος κωλύει, ἀλλ' ὅμως οὐ πράττομεν, διὰ τὸ ἀγράφῳ νόμῳ κωλύεσθαι. (Lips. 1759. p. 222.)

^r Concil. Illiberitan. c. xxxv. (Labbé, vol. i. p. 974.) Placuit prohiberi, ne feminae in cœmeterio pervigilent: eo quod sæpe sub obtentu orationis latenter scelera committant.

CHAPTER XII.

OF GREAT TRANSGRESSIONS OF THE EIGHTH COMMANDMENT, THEFT, OPPRESSION, USURY, PERVERTING OF JUSTICE, FRAUD AND DECEIT IN TRUST AND TRAFFIC, &c.

SECT. I.—*Of those who taught the doctrine of Renunciation or having all things common.*

THE design of the eighth commandment is to secure men in the quiet possession of their own rights and properties, or whatever they have a just title to by the laws of God and the community where they dwell. And therefore, as many ways as these rights may be invaded or impaired, so many ways there are of committing robbery and transgressing this command. There were in the ancient Church some heretics, who, under pretence of greater heights in religion, would allow no men to possess any thing as their own right and property in this world; but obliged all men to renounce their title to every thing, and to have all things in common; pronouncing a peremptory sentence against all rich men, that unless they gave up their possessions, and forsook all that they enjoyed, they could not enter into the kingdom of Heaven. These men called themselves ‘Apotactici,’ from renouncing the world; and ‘Apostolici,’ from their pretended imitation of the Apostles; and ‘Encratitæ,’ from their ostentation of temperance and abstinence above other men. St. Austin^a says,

^a Aug. de Hæres. c. xl. (Bened. 1700. vol. viii. p. 910.) Apostolici, qui se isto nomine arrogantissime vocaverunt, eo quod in suam communionem non recipere utentes conjugibus et res proprias possidentes. . . . Sed ideo isti hæretici sunt, quoniam se ab ecclesia separantes, nullam spem putant eos habere, qui utuntur his rebus, quibus ipsi carent. Encratitis isti similes sunt: nam et Apotactitæ appellantur. See Epiphan. Hæres. lxi. Apostolicor. n. iv.

“They would receive none into their communion that lived in the conjugal state, or that possessed any thing as their property in this world; they separated from the Church on this account, and would allow no man to have any hope of salvation, that did not practise as they did; and therefore the Church condemned them as heretics for laying such a doctrinal necessity upon these things, which were left to every man’s liberty in practice.” The Eustathians maintained the same doctrine; but the Council of Gangra^b condemned it as heretical, and anathematized the authors and defenders of it. So that this was a general sort of invasion of the rights and properties of mankind, robbing them of every thing in an unusual and extraordinary way; not by any open violence or secret stealth, but by turning religion into an art, and inducing men to rob themselves of every thing under pretence of piety and greater heights of devotion. The factors and agents in this cause seem not to have had any design to enrich themselves, but to make all men poor, and bring them to a level, and lay all things common: which was such a scandalous representation of the Christian religion in the eyes of the heathen, that the Fathers thought they could not be too severe upon it, however it was coloured over with the varnish and disguise of holiness, pretending a great contempt of the world, and a divine and heavenly temper. As, therefore, they condemned the doctrine for heretical, so they never failed to pursue the abettors of it with the utmost severity of ecclesiastical censures. And the Imperial Laws concurred^c with them, subjecting these Apotactites, or renouncers, to all the civil penalties that were imposed upon heretics in all other cases, except that of confis-

^b Concil. Gangr. in præfatione. (Labbé, vol. ii. p. 414, 415.)

^c Cod. Theodos. lib. xvi. tit. v. de Hæretic. leg. vii. (Lugdun. 1665. vol. vi. p. 121.) Nec se sub simulatione fallaciæ eorum scilicet nominum, quibus plerique, ut cognovimus, probatæ fidei et propositi castioris dici ac signari volent, maligna fraude defendant; quum præsertim nonnulli ex his Eneratitas, Apotactitas, Hydroparastatas vel Saccophoros nominari se velint, et varietate nominum diversorum velut religiosæ professionis officia mentiantur. Eos enim omnes convenit, non professione defendi nominum, sed notabiles atque execrandos haberi scelere sectarum. Ibid. leg. xi. Omnes omnino, quoscumque diversarum hæresium error exagitat (id est, Eunomiani, Ariani, Macedoniani, Pneumatomachi, Manichæi, Encratitæ, Apotactitæ, Saccophori, Hydroparastatæ) nullis circulis cœant, nullam colligant multitudinem, etc. (page 126.)

cation of goods, which signified nothing to those, whose very crime consisted in a perverse way of renunciation of all things, which left them nothing to forfeit.

SECT. II.—*Of Plagiarism or Man-stealing.*

Next to this general sort of robbery, the laws set a particular mark upon that which is commonly called ‘Plagiarism,’ or Man-stealing. The old Roman law condemned such as were guilty of it, either in a pecuniary mulct, or sent them to the mines. But Constantine thought this was not a sufficient punishment for the crime; and therefore he added to it, and made it capital,^a ordering every such criminal to be thrown to the wild beasts in the theatre; and if they were likely to escape with their lives thence, to be put to death with the sword. The ecclesiastical laws appoint no particular punishment for this crime: but it being of the same nature with murder in the law of God, it may be supposed that the penance of murderers was inflicted on those that were found guilty of it.

SECT. III.—*Of malicious Injustice.*

I take no notice here of sacrilege; because though that be a species of theft, yet the punishment of that has been considered under¹ another title. The remaining sorts of injustice may be summed up under these four heads: 1. Malicious Injustice. 2. Simple Theft. 3. Open Violence and Oppression. 4. Fraud and Deceit. Malicious injustice is doing hurt and prejudice to our neighbour in his goods out of pure hatred and ill-will, when we can do ourselves no benefit or kindness by it. As when men set houses or stacks of corn on

^a Cod. Theod. lib. ix. tit. xviii. (Lugdun. 1665. vol. iii. p. 154.) ad legem Fabiam de Plagiariis, leg. i. Plagiarii, qui viventium filiorum miserandas infligunt parentibus orbitates, metalli poena, cum ceteris ante cognitis suppliciis tenebantur. Si quis tamen ejusmodi reus fuerit oblatus, posteaquam super crimine patuerit, servus quidem vel libertate donatus, bestiis primo quoque munere objiciatur; liber autem sub hac forma in ludum detur gladiatorum, ut, antequam aliquid faciat, quo se defendere possit, gladio consumatur. Eos autem, qui pro hoc crimine jam in metallum dati sunt, numquam revocari precipimus.

¹ Cap. vi. § xxii. seq.

fire out of malice and revenge to their neighbours; or poison or kill their cattle; or do them any the like injury in their goods, without reaping any advantage from it, but only gratifying a spiteful and revengeful temper. The old Roman law adjudges all such to be guilty of capital crimes, and particularly those whom they term incendiaries,^f who set towns on fire, either out of enmity, or to make plunder and prey of them: which sort of criminals were, by way of just retaliation, often sentenced to be burnt alive. The Ecclesiastical Code of the ancient Church has no particular laws against such:^g but as their crimes were often a complication of many great sins; enmity and malice, and theft and murder commonly concurring in incendiaries; so it may be presumed their punishment and penance was assigned according to the nature and quality of the several offences which made up this compound vice; than which few can be conceived more heinous, because it has in it so much of the pure malicious and diabolical temper.

SECT. IV.—*Of simple Theft.*

Simple theft was reckoned among the great crimes which brought men under public penance: and therefore there is the more reason to conclude it of those complicated crimes. St. Austin frequently, in distinguishing between great and small sins,^h puts theft into the first class of heinous crimes, for which

^f Digest. lib. xlviii. tit. xix. de Pœnis, leg. xxix. Incendiarii capite puniuntur, qui ob inimicitias, vel prædæ causa incenderunt intra oppidum, et plerumque vivi exuruntur.

^g The first ecclesiastical laws against incendiaries I have met with, are the decrees of Eugenius II. an. 824. cap. ix. (tom. vii. Concil. p. 1542.) Innovamus, ut si quis pro vindicta vel odio ignem apposuerit, vel apponi fecerit, non absolvatur, nisi damno, cui intulerit, secundum facultatem suam resarcito, juret se ulterius ignem non appositurum: et pœnitentia ei detur, ut Hierosolymis, aut in Hispania, in servitio Dei per annum pœniteat. And Pope Gregory's Decretals, lib. v. tit. xvii. de Raptoribus et Incendiariis.

^h Aug. tract. xii. in Joann. tom. ix. Opp. p. 47. (Bened. 1700. vol. iii. p. 284. A 8.) (p. 112, edit. Basil. 1569.) In dilectione ejus et in misericordia ejus qui ambulat, etiam liberatus ab illis lethalibus et grandibus peccatis, qualia sunt facinora, homicidia, furta, adulteria, propter illa, quæ minuta videntur esse peccata linguæ, aut cogitationum, etc. Id. tract. xli. in Joan. p. 126. (Bened. p. 417.) Apostolus Paulus, quando elegit ordinandos vel presbyteros vel diaconos, et quicumque ordinandus est ad præposituram ecclesiæ, non ait, Si quis sine peccato est: hoc enim si diceret, omnis homo reprobaretur, nullus ordinaretur: sed ait, Si quis

men were to do a more formal penance in the Church. And among St. Basil's canonsⁱ there is one that particularly specifies the time of penance: "The thief, if he discover himself, shall do one year's penance; if he be discovered by others, two: half the time he shall be a prostrator, the other half a co-stander." Only St. Austin intimates,^k "There were some circumstances in which they were forced to bear with this as well as other sins:" he means, when some insuperable difficulties or danger made it either impossible, or unadvisable, to put the discipline of the Church strictly in execution against them.

SECT. V.—*Of detaining lost Goods from the true Owner.*

Under this head, they reckoned such as detained any lost goods which they found, from the true proprietor, when he could lay a just claim to them. St. Austin expressly condemns this as manifest robbery. "If thou hast found^l any thing, and not restored it, thou art guilty of robbing the true owner. He that denies what he finds of another man's, would take it from him if he could. In this case God examines the heart, and not the hands." Origen^m says the same, "That not to restore what a man finds, is equal to robbery; however some

sine crimine est, sicut est homicidium, adulterium, aliqua immunditia fornicationis, furtum, fraus, sacrilegium, et cetera hujusmodi. Confer sis Hom. xxvii. ex l. tom. x. p. 177. (p. 477—483.)

ⁱ Basil. can. lxi. (Labbe, vol. ii. p. 1749.) 'Ο κλέψας, εἰ μὲν αὐτὸ ἐαυτοῦ μεταμεληθεὶς κατηγορήσῃ ἐαυτοῦ, ἐνιαυτὸν κωλυθήσεται μόνῃς τῆς κοινωνίας τῶν ἁγιασμάτων· εἰ δὲ ἐλεγχθείῃ, ἐν δυσιν ἔτεσιν· μερισθήσεται δὲ αὐτῷ ὁ χρόνος εἰς ὑπόπτωσιν, εἰς σύστασιν, καὶ τότε ἀξιούσθω τῆς κοινωνίας.

^k August. Epist. liv. ad Macedon. p. 95. (p. 248, edit. Basil.) (Bened. 1700. vol. ii. p. 404. B 8.) Aliquando etiam, si res magis curanda non impedit, sancti altaris communione privamus.

^l August. Homil. xix. de verbis Apostol. tom. x. p. 138. (Bened. 1700. vol. v. p. 593. C 10.) Quod invenisti et non reddidisti, rapuisti. Quantum potuisti, fecisti: quia plus non potuisti, ideo non plus fecisti. Qui alienum negat, si possit et tollit. Quod non tollis, timor prohibet: non bonum facis, sed malum metuis. 10. Latro timet malum; et ubi non potest, non facit: et tamen latro est. Deus enim cor interrogat, non manum.

^m Orig. Homil. iv. in Levitic. p. 119. (p. 73. c. edit. Paris. 1604.) Multi sine peccato putant esse, si alienum quod est invenerint, et dicant, 'Deus mihi dedit, cui habeo reddere?' Discant ergo peccatum hoc esse simile rapinæ, si quis inventa non reddat.

had the vanity to think there was no sin in it, and were ready to ask, To whom shall I restore it, seeing God has put it into my hands?" The old Roman laws were much more equitable than the conscience of such. For they reckon it theft to detain what a man finds, even when they know not who is the true owner of it. In which case,ⁿ they direct him to put up a libel of inquiry after the proprietor; and when he is found, to take of him what they call *εὔρετρα*, and *μῆνυτρα*, and *σῶστρα*, a reward for finding and saving what was lost: though this they rather account a dishonourable and scandalous demand, if precisely exacted. St. Austin gives a very remarkable instance of this sort of generosity in refusing the reward of finding lost goods, in one who was a poor Christian usher to a heathen schoolmaster at Milan. He found a bag of money about the value of two hundred shillings; and not knowing who was the owner, according to law, he put up a libel publicly^o to enquire after him. For he was sensible he ought to return it, though he knew not as yet to whom. The man who had lost the money, upon notice given in the libel, comes to him, and tells the marks, the condition of the bag, the seal,

ⁿ Digest. lib. xlvii. tit. ii. de Furtis, leg. xliii. n. ix. ex Ulpiano. Quid ergo si *εὔρετρα*, quæ dicunt, petat? Non hic videtur furtum facere, etsi non probe petat aliquid.

^o Augustin. de verbis Apostol. serm. xix. p. 138. (p. 357, edit. Basil. 1569.) (Bened. 1700. vol. v. p. 592, last line.) Dicam quod fecerit pauperrimus homo, nobis apud Mediolanum constitutis; tam pauper, ut proscholos esset grammatici: sed plane Christianus, quamvis ille esset paganus grammaticus; melior ad velum, quam ad cathedram. Invenit sacculum, nisi forte me numerus fallit, cum solidis ferme ducentis: memor legis proposuit pittance publicæ. Reddendum enim sciebat; sed cui redderet, ignorabat. Proposuit pittance publicæ: Qui solidos perdidit, veniat ad illum locum, et quærat hominem illum. Ille qui plangens circumquaque vagabatur, invento et lecto pittacio, venit ad hominem. Et ne forte quæreret alienum, quæsitivæ signa, interrogavit sacculi qualitatem, sigillum, solidorum etiam numerum. Et quum omnia ille fideliter respondisset, reddidit quod invenerat. Ille autem, repletus gaudio et quærens vicem rependere, tamquam decimas obtulit illi solidos viginti: qui noluit accipere. Obtulit vel decem: noluit accipere. Saltem rogavit vel quinque accipere: noluit ille. Stomachabundus homo projecit sacculum: Nihil perdidit, ait: si non vis aliquid a me accipere, nec ego aliquid perdidit. Quale certamen, fratres mei, quale certamen, qualis pugna, qualis conflictus: theatrum mundus, spectator Deus. Victus tandem ille, quod offerebatur accepit: et continuo totum pauperibus erogavit, unum solidum in domum suam non dimisit.

and the sum, and receives his own again; and with great joy, thankfulness, and gratitude, offers him the tithe, twenty shillings, as his requital and reward; but he would not accept it. He offers him ten; but he would not accept it. He entreats him, however, at least to take five; but he refused. Upon which the man in anger cast down his bag, and said, 'I have lost nothing: if thou wilt receive nothing of me, I have lost nothing.' "What a brave contention," says St. Austin; what a prize, what a strife and noble conflict was this, where the whole world was the theatre, and God the spectator." At last, the man is subdued by mere importunity, and prevailed upon to accept what was offered him; but he immediately gave it all to the poor, and would not carry one shilling of it home with him, to lay up for his own private use. By this relation we may judge how great a crime it was reckoned to conceal or detain what was lost, from the right owner; since even the exacting any reward for finding it was reputed dishonourable and scandalous, and some ancient canons set a particular mark of infamy upon it, as a species of filthy lucre. "Men ought not (says Gregory Thaumaturgus^q) to exact a reward for saving, or discovering, or finding any thing that was lost, but to live without filthy lucre."

SECT. VI.—*Of refusing to pay just Debts.*

They put into the same class all such as refused to pay their just debts, especially such as used any base and sinister arts to excuse themselves from the payment of them. It was usual with many Jews to pretend to become converts to Christianity, only to shelter themselves from their creditors, and the justice of the law in many criminal cases also, by claiming the privilege of sanctuary in the Church. To correct which abuse, Arcadius made a law,^r "That no such practice should be allowed; but

^p August. *ibid.* page 593.

^q Gregor. Thaumaturg. can. x. ap. Bevereg. Pandect. tom. ii. p. 34. Τοὺς δὲ τὴν ἐντολὴν πληροῦντας ἐκτὸς πάσης αἰσχροκερδείας πληροῦν δεῖ, μήτε μὴν-τρα, ἢ σῶστρα, ἢ εὐρετρα, ἢ ᾧ ὀνόματι καλοῦσιν, ἀπαιτοῦντας.

^r Cod. Theodos. lib. ix. tit. xlv. de his, qui ad ecclesias confugiunt, leg. ii. (Lugdun. 1665. vol. iii. p. 360.) Judæi, qui reatu aliquo vel debitis fatigati, simulant se Christianæ legi velle conjungi, ut ad ecclesias confugientes vitare

that they should be repelled from the Church, and not be received till they had faithfully discharged all their debts, and demonstrated their innocence in other respects, as a necessary qualification for their admission." In some cases indeed, when men were unable to pay their debts, the Church, in charity, was inclined to protect them; but then, in that case, she was also obliged to pay their debts; as appears from several laws^s made in that behalf; and from the instance which St. Austin^t gives of his own Church paying the debts of one Fastius, who fled from his creditors to her protection. And this case of necessity was very different from that fraudulent and criminal refusal of paying debts, when men lay under no such straits and difficulties. As therefore the one was matter of commiseration, and made men objects of pity and compassion; so the other made them odious and abominable, as deceitful villains, and rendered them fit objects of legal severity, and ecclesiastical censure.

SECT. VII.—*And what men are bound to by the obligation of Promise and Contract.*

Among just debts, they always reckoned those which men contracted by the obligation of promise and mutual engagements to each other. And therefore all breach of faith in such cases, came under the denomination of theft, and was accordingly punished as a species of that transgression. The Council of Eliberis^u applies this particularly to such parents as break the espousals or ante-nuptial contracts, to which they have agreed in behalf of their children: for which offence they are obliged to abstain three years from the communion. This, in

possint crimina, vel pondera debitorum, arceantur: nec ante suscipiantur, quam debita universa reddiderint, vel fuerint innocentia demonstrata purgati.

^s Ibid. leg. i. (p. 358.) Publicos debitores, si confugiendum ad ecclesias crediderint, aut illico extrahi de latebris oportebit, aut pro his ipsos, qui eos occultare probantur, episcopos exigi. Sciat igitur præcellens Auctoritas tua, neminem debitorum posthac a clericis defendendum: aut per eos ejus, quem defendendum esse crediderint, debitum esse solvendum. Confer sis leg. iii. ibid.

^t Augustin. Epist. ccxv. tot. (Bened. vol. ii. p. 683.)

^u Concil. Illiber. c. liv. Si qui parentes fidem frugerint sponsaliorum triennii tempore abstineantur. [abstineant se a communione] etc. (Labbe, vol. i. p. 976.)

effect, was a robbery committed both upon persons and things, depriving the man of his wife and the woman of her husband, and each of them of all those rights and benefits that might have accrued to them by such matrimonial contracts. For which reason it was ranked among those more heinous thefts, and perfidious injuries offered to men's rights, which were thought to deserve a public censure.

SECT. VIII.—*Of removing Bounds and Land-marks.*

And among these, the removing or defacing ancient bounds and land-marks was accounted no small crime. Even among the old Romans, it was punished as a capital offence. Numa Pompilius divided the Roman fields by certain marks erected of stone, which they called 'Lapides sacri,' because they were consecrated to Jupiter; and the covering or transferring these was reckoned such an offence, that any one who was taken in it, might lawfully * be slain, as a sacrilegious person. The law of God lays a curse upon it (Deut. xxvii. 17), "Cursed be he that removeth his neighbour's land-mark." Constantine reckons it among those criminal actions which were to be punished in an extraordinary way;† as Pithœus and Gothofred have observed from an old remark made upon the sentences of the famous lawyer Paulus, which says, "In eum qui per vim terminos dejecerit vel amoverit, extra ordinem animadvertitur:" upon which the annotator says, "That the same thing was determined by Constantine in the Theodosian Code." Which makes Gothofred conclude, "That either that law is wanting now in the Theodosian Code, or else that it refers to

* Vid. Calvin. Lexicon. Juridic. voce Fines. Numa Pompilius, rex Romanorum secundus, fundorum finibus, ut suo quisque contentus esset, sacros Jovi lapides apponi jussit, eosque occultantes aut transferentes occidi impune, sacrilegorum instar, voluit.

† Pithœus, adnotat. in Collat. legum Mosaicar. et Roman. tit. xiii. (Basil. 1574. p. 103.) Gothofredus paratit. in cod. Theod. lib. ii. de finibus regundis, tit. xxvi. Ceterum hoc titulo aliquid desiderari ex eo apparet, quod ad tit. xvi. lib. i. sentent. in veteribus exemplaribus adnotatur ad hanc Pauli sententiam, 'in eum, qui per vim terminos dejecerit vel amoverit, extra ordinem animadvertitur;' adnotatur, inquam, idem statui in cod. Theodos. lib. ii. sub era xxvi.; ut adnotavit Petrus Pithœus in tit. xiii. Collation. leg. Mosaicar. Quare nisi legem i. hujus tit. indicari putemus, hic aliquid desideretur, necesse est. (Lugdun. 1665. vol. i. p. 201.)

Constantine's first law under that title, which says, 'Invasor ille poenæ teneatur addictus,' such an invader shall be liable to punishment, though the particular manner of punishment be not expressed." However, it was a crime of that nature, as to require a peremptory punishment without appeal, as appears from another law of Constantine's* in the same code. The ecclesiastical law always condemned this as a cursed crime, from the law of God: "Cursed be he that removeth his neighbour's land-mark." And, "Remove not the ancient land-mark, which thy fathers have set." Under this title, they also censured all such ambitious bishops, as not content with the limits of their own dioceses, invaded the territory of others, and endeavoured to bring places out of their district under their jurisdiction. Pope Innocent,^a writing to a bishop upon such an occasion, reminds him of what the Scripture has so often said, "That we ought not to remove the bounds which our fathers have set;" and therefore admonishes him to quit his pretensions, unless he was minded to feel the severity of ecclesiastical censure.

SECT. IX.—*Of Oppression.*

This sort of robbery may also be reckoned under another species of theft, which the law calls compound theft, because it joins something of violence or oppression to the robbery. Such as hostile invasion; robbing with arms upon the highway; breaking houses in the night; piracy at sea; cruel exactions of judges, and other public officers, above what the law allows, perverting of justice by bribery or rigorous interpretations of the law, together with extortion and unjust usury. All which the law condemns under the general name of oppression; and

* Cod. Theodos. lib. ix. tit. i. de Accusat. lib. i. (Lugdun. 1665. vol. iii. p. 3.) Qui fines aliquos invaserit, publicis legibus subjugetur, neque super ejus nomine ad Scientiam nostram referatur.

^a Innocent. Epist. viii. ad Florentium. (Labbé, vol. ii. p. 1263.) Non semel, sed aliquoties clamat scriptura divina, transferri non oportere terminos, a patribus constitutos: quia nefas est, si, quod alter semper possederit, alter invadat: quod tuam Bonitatem, frater et cœpiscopus noster, Ursus asserit perpetrasse. . . . Quod si verum est, non leviter te culpam incurrisse cognoscas, etc.

the ancient canons make it matter of excommunication. The fourth Council of Carthage^b has one canon forbidding the priests to receive any oblations from those that oppress the poor: and another,^c appointing such as denied to the Church the oblations of the dead, or refused to pay them without difficulty and trouble, to be excommunicated, as murderers of the poor. Agreeable to which is that of St. Chrysostom,^d directing his clergy not to admit any cruel or unmerciful man to the Lord's table: "Although it be a general, although it be a governor or consul, although it be he that wears the crown, prohibit him: thou, in this case, hast greater power than he." And again, inveighing against oppressors, who offered alms out of what they had violently taken from others, he says^e elegantly, "That God will not have his altar covered with tears: Christ will not be fed with robbery; such sort of sustenance is most ungrateful to him: it is an affront to the Lord to offer unclean things to him: He had rather be neglected, and perish by famine [in his poor members] than live by such oblations. The one is cruelty; but the other is both cruelty, and an affront likewise. It is better to give nothing, than to give that which of right belongs to other men." After the same manner, St. Austin answers the plausible apologies of spoilers and oppressors. "Their plea was, 'I make^f feasts of charity, I send

^b Concil. Carth. IV. c. xciv. (Labbé, vol. ii. p. 1207.) Eorum, qui pauperes opprimunt, dona a sacerdotibus refutanda.

^c Ibid. can. xcv. Qui oblationes defunctorum aut negant ecclesiis, aut cum difficultate reddunt, tamquam egentium necatores excommunicentur.

^d Chrysost. Hom. lxxxii. al. lxxxiii. in Matth. p. 705. B 10. (p. 869, edit. Francf.) *Κὰν στρατηγός τις ᾗ, κὰν ὑπαρχος, κὰν αὐτὸς ὁ τὸ διάδημα περικείμενος, ἀναξίως δὲ προσείη, κώλυσον, μείζονα ἐκείνου τὴν ἑξουσίαν ἔχεις.*

^e Ibid. Hom. lxxxvi. al. lxxxvii. in Matth. p. 722. B 6. (p. 892, edit. Francf.) *Οὐ βούλεται Χριστὸς πλεονεξία τρέφεσθαι, οὐ δέχεται ταύτην τὴν τροφήν· τί τὸν Δεσπότην ὑβρίζει ἀκάθαρτα προσάγων αὐτῷ; βέλτιον λιμῷ τηκόμενον περιορᾶν, ἢ τρέφειν ἀπὸ τοιούτων· ἐκεῖνο ὡμοῦ, τοῦτο καὶ ὑβριστοῦ· βέλτιον μὴδὲν δοῦναι, ἢ τὰ ἄλλων ἐτίροις.*

^f Augustin. Homil. xix. ex l. tom. x. p. 137. (Homil. xix. de verbis Apostol. p. 356, edit. Basil. 1569.) (Bened. 1700. vol. v. p. 591. E 10.) *Ait mihi raptor rerum alienarum, Ego similis illius divitis non sum. Agapes facio, vinctis in carcere victum mitto, nudos vestio, peregrinos suscipio. Dare te putas: tollere noli, et dedisti. Cui dederis, gaudet: cui abstuleris, plorat: quem duorum istorum exauditurus est Dominus? Dicis ei cui dederis, Gratias age, quia accepisti.*

meat to them that are bound in prison, I clothe the naked, I entertain strangers.' Do you imagine this is properly giving? Do not take from others; and then you may be said to give. He, to whom you give, rejoices; but he, from whom you take, laments; which of the two will God hear? You say to him to whom you give, Give thanks, because you have received. But he, on the other hand, from whom you have taken it, says, 'I mourn:' you keep almost the whole, and give a small portion to the other. If, therefore, you give to the poor what you take from others, God is not pleased with such works. God says to thee, 'Thou fool, I command thee to give, but not that which is another man's. If thou hast aught, give of that which is thine own: if thou hast not of thine own to give, it is better thou shouldst not give, than spoil some to give to others.'"^s He says in another place,^s "Some were so vain as to think that a little alms, before they died, would effectually expiate all their sins, however wicked or rapacious they had been all their lives before," against whom he disputes accurately and sharply in several books^h which it would be needless here to cite at large. I only add, that agreeable to these rules, the author of the Constitutions under the name of the Apostles, giving directions to bishops about the persons from

Sed alter tibi ex alia parte dicit, Ego gemo, cui abstulisti. Et pene totum tenuisti, et exiguum illi dedisti. Si ergo quod alteri abstulisses, egentibus dedisses, nec talia opera diligit Deus. Dicit tibi Deus, Stulte, jussi, ut dares, sed non de alieno. Si habes, da de tuo: si non habes quod des de tuo, melius nulli dabis, quam alteros spoliabis.

^s Augustin. de Civit. Dei, lib. xxi. c. xxii. (Bened. 1700. vol. vii.) Comperi etiam quosdam putare eos tantummodo arsuros illius aeternitate supplicii, qui pro peccatis suis facere dignas eleemosynas negligunt, juxta illud apostoli Jacobi, 'Judicium autem sine misericordia illi, qui non fecit misericordiam.' Qui ergo fecerit, inquit, quamvis mores in melius non mutaverit, sed inter ipsas suas eleemosynas nefarie ac nequiter vixerit, judicium illi cum misericordia futurum est, ut aut nulla damnatione plectatur, aut post aliquod tempus, sive parvum sive prolixum, ab illa damnatione liberetur. Ideo Judicem ipsum vivorum atque mortuorum noluisse existimant aliud commemorare se esse dicturum, sive dextris quibus est vitam daturus aeternam, sive sinistris quos aeterno supplicio est damnaturus, nisi eleemosynas sive factas, sive non factas. etc.

^h Ibid. lib. xxi. c. xxvii. tot. Et in Enchirid. c. lxxv. al. lxxvi. Serm. xxxv. de verbis Domini. Contr. Julian. Pelag. lib. v. c. x. Vid. plura ap. Gratian. Caus. xiv. Quæst. v. et vi.

whom they were to receive oblations at the altar, or refuse them, among many other criminals, orders them to reject those who afflict the widow, and oppress¹ the fatherless by their power, and fill the prisons with innocent persons, and evil entreat their servants with stripes, famine, or hard bondage; and lay waste whole cities; all lawyers that plead for injustice or unrighteous causes; all unrighteous judges; all wicked publicans, and usurers, and soldiers that are false accusers, and not content with their wages, but oppress the poor.

SECT. X.—*Of the Exactions and Bribery of Judges.*

And that this was agreeable to the common discipline of the Church, will appear by examining the particulars. To begin with that which was the most flagitious and intolerable, the oppression committed by judges in their office, partly by cruel exactions, partly by feigned accusations, and partly by perversion of justice for the sake of bribery and filthy lucre: which sorts of oppression the law commonly terms ‘*Crimen Repetundarum et Peculatus*.’ For though ‘*Peculatus*’ often signifies robbing the public by private stealth, yet it sometimes also denotes the oppressions and injuries done by magistrates to the subject: in which case, the censures of the Church were often inflicted upon oppressing governors. As we have a famous instance of Synesius^k excommunicating Andronicus, the governor of Ptolemais, for his violent oppression of the people. The Imperial Laws were also very numerous and very severe in this case, to secure the rights and properties of the people from such violent invasion. They did not indeed allow the subject, for some time, to accuse the magistrate during the year of his administration: but Theodosius^l took off even

¹ Constit. lib. iv. c. v. (Labbé, vol. i. p. 330. C 5.) *Καὶ οἱ ἐκθλίβοντες χήραν, καὶ ὀρφανὸν καταδυναστεύοντες, καὶ τὰς φυλακὰς πληροῦντες ἀναιτίῳ, ἢ καὶ τοῖς ἐαυτῶν οἰκέταις πονηρῶς χρώμενοι, πληγαῖς φημι καὶ λιμῷ καὶ κακοδουλίᾳ, ἢ καὶ πόλει δλας λυμαινόμενοι, φευκταῖοι ἔστωσάν σοι, ὡ ἐπίσκοπε· καὶ αἱ τοῦτων προσφοραὶ μυσαραί· παραιτήσῃ δὲ καὶ . . . ῥήτορας ἀδίκῃ συναγωνιζόμενους, . . . καὶ τελῶνας ἀδίκους, καὶ ζυγοκρούστας, καὶ δολομέτρους, καὶ στρατιώτην συκοφάντην, μὴ ἀρκοῦμενον τοῖς ὀψωνίοις, ἀλλὰ τοὺς πένητας διασείοντα.*

^k Synes. Epist. lvii. p. 172.

^l Cod. Theod. lib. ix. tit. xxvii. ad legem Juliam repetundarum. leg. vi. (Lug-

that restraint, and not only gave men liberty, but invited and encouraged men of all orders to bring informations against corrupt judges, if they had either suffered any violence from them themselves, or knew them to be guilty of bribery, or setting justice to sale, or any the like improbity: and that as well in the time of their administration as afterward; promising a reward to any that should make good such charges against them. The like encouragement was given by Constantine^m and Valentinian junior,ⁿ as appears by their laws now extant in the Theodosian Code. And whereas the punishment of such corruption in the magistrate was only a pecuniary mulct before, Theodosius^o by a new law made it death, as thinking no punishment too great for such an offence. At Carthage, they had a peculiar good custom, which tended much

dun. 1665. vol. iii. p. 216.) Jubemus, hortamur, ut si quis ... a judice fuerit aliqua ratione concussus; si quis scit venalem de jure fuisse sententiam; si quis poenam vel pretio remissam, vel vitio cupiditatis ingestam; si quis postremo quacumque de causa improbum judicem potuerit approbare; is vel administrante eo, vel post administrationem depositam, in publicum prodeat, crimen deferat, delatum approbet: quum probaverit, et victoriam reportaturus et gloriam.

^m Cod. Theodos. lib. ix. tit. i. de Accusatoribus, leg. iv. (Lugdun. 1665. vol. iii. p. 6.) Si quis est cujuscumque loci, ordinis, dignitatis, qui se in quemcumque Judicum, Comitum, Amicorum, vel Palatinorum meorum, aliquid veraciter et manifesto probare posse confidit, quod non integre atque juste gessisse videatur, intrepidus et securus accedat; interpellat me; ipse audiam omnia, ipse cognoscam: et si fuerit comprobatum, ipse me vindicabo: dicat securus, et bene sibi conscius dicat: si probaverit, ut dixi, ipse me vindicabo de eo, qui me usque ad hoc tempus simulata integritate deceperit. Illum autem, qui hoc prodiderit et comprobaverit, et dignitatibus et rebus augebo. etc.

ⁿ Cod. Theod. lib. ix. tit. xxvii. ad leg. Juliam Repetundarum. leg. vii. (Lugdun. 1665. vol. iii. p. 217.) Unusquisque procurator, præpositus gynæcio, tabularius, susceptor, colonus, vel quicumque se a Comite domorum meminerit esse concussum, quum ipse cui pecuniam numeraverit, administratione decesserit, intra anni spatia ad judicium Spectabilitatis tuæ, quidquid dederit repetiturus, adcurrat: ut prosit pensionibus, quidquid ille reddiderit. Sin vero ex tempore depositæ administrationis præstituti temporis curricula transfluxerint, nulla vox advectionis emergat, sed ipsos procuratores, præpositos, colonos, tabularios, susceptores obnoxios ad solutionem jubemus citari.

^o Cod. Theod. lib. ix. tit. xxviii. de Crimine Peculatus, leg. i. (Lugdun. 1665. vol. iii. p. 219.) Pridem fuerat constitutum, ut hi judices, qui peculatu provincias quassavissent, multæ dispendio subjacerent; sed quoniam nec condigna crimini ultio est, nec par pœna peccato, placuit ... capitale hoc esse, atque animadversione severissima coerceri.

to discourage all such rapacious practices in their magistrates. For Prosper^p tells us, that every year the new proconsul was used upon a certain day, which they called 'Albi Citatio,' to read over a list of the governors that had been before him : and then they that had been just in their administration, and gone through their office without covetousness, or rapaciousness, or any such flagrant crimes, were honoured in their absence by the applauses of the people : but on the other hand, they whom covetousness had driven into scandalous measures of robbery and violence, were noted with marks of infamy by general hissings and reproaches.

SECT. XI.—*Of the Exactions of Publicans, and Collectors of the public revenues, and other Officers of the Roman empire.*

The laws were equally severe against all 'Super-exactors,' as they are called, of the public revenues. The common burden of tribute and taxes was generally hard enough, even as settled by law in the Roman^q government : but the illegal exactions of the publicans and collectors made it a much more intolerable burden. Therefore the laws were forced to restrain and chastise their oppressions with great severity. Constantine made several laws to this purpose,^r condemning this crime as

^p Prosper. de Promissionibus Dei, sive gloria Sanctor. in peroratione. (Basani, 1782. vol. ii. p. 145.) In calculis eburneis nomina proconsulum conscripta Carthagine in foro coram populo a præsentis iudice sub certis vocabulis citabantur, et erat sollemnis dies, albi citatio. Hi qui avaritiam superantes, rem publicam fideliter egerant absque flagitiis facinoribusque, etiam absentes honorabantur : eos vero, quos rapacitas vicerat, populus conviciis sibilisque notabat.

^q Vide Lipsium de magnitudine Roman. lib. ii. c. i. ii. seqq.

^r Cod. Theod. lib. viii. tit. x. de Concussionibus Advocatorum, leg. i. (Lugdun. 1665. vol. ii. p. 599.) Si quis se a ducenariis, vel centenariis, ac præcipue faci advocatis, læsum esse cognoscit, adire judicia ac probare injuriam non moretur, ut in eum, qui convictus fuerit, competenti severitate vindicetur.—Gothofred. in h. l. Constantinus hac lege læsis animum dedit concussores accusandi : iudices vero severiter in eos vindicare jubet tum hac lege, tum d. l. i. de exactionib. quibus verbis capitalem pœnam indicari puto. It. lib. xi. tit. i. de Annona et Tributis, leg. iii. (iv. 9.) Manu propria iudices universi, periculo suo, annonarias species, et cetera quæ indictione penduntur, definitis quantitativis et comprehensivis modis, facta adscriptione, designent : cujus observantiæ illa erit commoditas, ut post successionem quoque eorum, facile requiratur, an exactores ultra quam oportuit, de fortunis provinciarum aliquid exsculpere voluerunt. Et lib. xi. tit. vii. de Exactionibus, leg. i. (iv. 66.) Ducenarii, et centenarii, sive sexage-

a capital offence, according to Gothofred's interpretation of severe punishment. Valentinian and Valens^a obliged the exactor to make restitution fourfold to the injured party; and condemned the judge in the same quadruple sum, if he refused upon complaint to do him justice. But Arcadius, finding that this law of Valentinian did not effectually put a stop to these exorbitant demands, made it death for any exactor to go^t beyond his bounds. And Honorius, some years after, joined both punishments together, ordering the exactor^u to be put to death, and quadruple restitution to be made out of his estate to the injured person; laying a fine withal of thirty pounds of gold upon any judge, that neglected to put the law in execution.

narii, non prius debent aliquem ex debitoribus convenire, quam a tabulario civitatis nominatim breves accipiant debitorum: quam quidem exactionem sine omni fieri concussionem oportet; ita ut, si quis in iudicio questus, quod indebite exactus est, vel aliquam inquietudinem sustinuit, hoc ipsum probare potuerit, severa in exactores sententia proferatur. Lib. iv. tit. xii. de Vectigalibus, leg. i. Penes illum vectigalia manere oportet, qui superior in licitatione exstiterit; ita, ut non minus quam triennii fine locatio concludatur, nec ullo modo interrumpatur tempus exigendis vectigalibus præstitutum: quo peracto tempore, licitationum jura conductionemque recreari oportet, quum plus aliquid quam statutum est a provincialibus exegisse constiterit. (vol. i. p. 379.)

^a Cod. Theod. lib. xi. tit. xvi. de Extraordinariis, leg. xi. (Lugdun. 1665. vol. iv. p. 123.) Nihil a provincialibus extraordinaria patimur indictione deposci. Caveat igitur magnifica Auctoritas tua, ne præter ea quæ a Mansuetudine nostra patuerit indicta, tenuiorum oneret functionem: ut si quis usurpatoria temeritate amplius aliquid fuerit conatus exigere, obnoxius quadrupli repetitione teneatur: quæ severitas jussionis ad ordinariorum iudicum officiorumque terrorem debet excurrere, ut si eorum vel gratiosa conhibentia, vel ignobili dissimulatione temeritas admiserit curialis, eos quoque damni similis poena castiget.

^t Cod. Theod. lib. xi. tit. viii. de Superexactionibus, leg. i. (Lugdun. 1665. vol. iv. p. 83.) Si quis exactorum superexactionis crimen fuerit confutatus, eandem poenam subeat, quæ divi Valentiniani sanctione dudum fuerat definita: capitis namque periculo posthac cupiditas amovenda est, quæ prohibita totiens in isdem sceleribus perseverat.

^u Cod. Theod. lib. xi. tit. vii. de Exactionibus, leg. xx. (Lugdun. 1665. vol. iv. p. 81.) Si in concussionem possessorum exactores fuerint deprehensi, illico et capitali periculo subjaceant, et direptorum quadrupli poena ex eorum patrimonio eruetur. Iudices autem triginta librarum auri multæ acerbitate sciant se esse plectendos, nisi ea quæ salubriter ordinata sunt, necessaria devotione compleverint. Vide sis ibid. tit. viii. de Superexactionibus, leg. ii. et iii. ejusdem Honorii. It. lib. xi. tit. xxvi. de Discussoribus, leg. i. etc. Lib. xiii. tit. xi. de Censitoribus, leg. vii. et x. Et Valentiniani iii. novell. vii. de Indulgentiis reliquorum.

Now what the civil law so severely condemned, there is no question but that the ecclesiastical law punished in the spiritual way with equal severity, under the general name of oppression.

SECT. XII.—*Of the Exactions of Advocates, and Lawyers, and Apparitors of Judges.*

There was another cruel way of oppression under colour of law, much practised by advocates and lawyers, commonly called ‘Scholastici’ and ‘Defensores,’ and the apparitors and officers of the civil courts, and attendants of judges. Their exactions, and extortions upon men’s necessities, are frequently complained of, and provided against by several laws. The law allowed them certain stated wages, or ‘canonical pensions,’ as the term is, for pleading and managing causes: but beyond these, they often made no scruple to exact maintenance for themselves and their horses, wherever they came, in the city, or in mansions, without any pay: which super-exactions are particularly noted in advocates and officers by Constantius,* as instances of insatiable covetousness; and therefore he gives orders to judges to defend the people from such extortions, and not suffer their injuries and encroachments to go unpunished. Constantine reflects† upon the like extortion of advocates in

* Cod. Theod. lib. viii. tit. x. (Lugdun. 1695. vol. ii. p. 599.) de Concussionibus Advocatorum et Apparitorum, leg. ii. Præter solemnes et canonicas pensationes, multa a provincialibus Afris indignissime postulantur ab officialibus et scholasticis, non modo in civitatibus singulis sed et mansionibus: dum ipsis et animalibus eorumdem alimonie sine pretio ministrantur. Nec latet Mansuetudinem nostram, sæpissime scholasticos ultra modum, acceptis honorariis, in defensione causarum omnium, et annonas et sumtus accipere consuevisse; quibus tantis commodis fulti itinere suam avaritiam explere nequeunt. Provinciales itaque cuncti iudices tueantur, nec injurias inultas transire permittant.

† Cod. Theod. lib. ii. tit. x. de Postulando, leg. i. (Lugdun. 1695. vol. i. p. 138.) Advocatos, qui consceleratis depectionibus suæ opis egentes spoliunt atque denudant, non jure causæ, sed fundorum, pecorum, et mancipiorum qualitate rationeque tractata, dum eorum præcipua poscunt coacta sibi pactione transcribi, ab honestorum cœtu, judiciorumque conspectu segregari præcipimus.

—Cod. Justin. lib. ii. tit. vi. leg. v. (Amstel. 1663. p. 66.) Si qui advocatorum existimationi suæ immensa atque illicita compendia prætulisse sub nomine honorariorum ex ipsis negotiis, quæ tuenda susceperint, emolumenta sibi certæ partis cum gravi damno litigatoris et deprædatione poscentes fuerint inventi: placuit, ut omnes, qui in hujusmodi *avaritate* permanserint, ab hac professione

making wicked bargains with their clients, to make over to them the best of their lands, their cattle, and their slaves ; which he calls spoiling and pillaging those that stood in need of their patronage ; and orders, that such ‘ rapacious vultures,’ as Gothofred terms them, should be expelled the court, and never after be allowed the liberty of pleading. Another way, whereby wicked advocates were wont to oppress the poor, was, by encouraging their clients to draw their adversaries in a civil cause from the cognizance of the ordinary judges to a military tribunal, where they had more liberty by bribery, and other corrupt practices, to oppress them. Great complaints are made by Ammianus² Marcellinus, of this sort of depredation made upon the poor in the time of Valens, who, he says, opened the doors to robbery, which gained strength every day by the pravity of the judges and advocates, who sold the causes of poor men to the rulers in the army, or such as bore sway in the palace, by which means they increased their wealth, or brought themselves to preferment. To correct this abuse, Arcadius made a law,^a “ That whoever transferred a civil cause from the ordinary judges to a military court, should be liable to banishment, besides other penalties inflicted by former laws ; and the advocate, concerned in such a cause, should forfeit ten pounds of gold, except they had a special license from the emperor for such a removal.” Valentinian III. added to this, “ That the advocate should lose his office,^b and the counsellor be banished also.” And there were many other

penitus arceantur. (Legend. *scavitate* : vide Gothofred. ad anteced. leg. in codice Theodos. p. 139. b. Grischov.)

² Ammian. lib. xxxix. p. 448. Laxavit fores rapinarum, quæ roborantur indies judicium advocatorumque pravitare, quæ tenuiorum negotia militaris rei rectoribus, vel intra palatium validis venditantes, aut opes, aut honores quæsi-vere præclaros.

^a Cod. Theod. lib. ii. tit. i. de Jurisdictione, leg. ix. (Lugdun. 1665. vol. i. p. 86.) Si quis, neglectis judiciis ordinariis, sine cœlesti oraculo, causam civilem ad militare judicium crediderit deferendam, præter pœnas ante promulgatas intelligat se deportationis sortem excepturum. Nihilominus et advocatum ejus decem libris auri condemnatione feriendum.

^b Valentin. Novell. de Episcopali Judicio, tit. xii. Pœna defensoribus negotii, qui in eodem extraordinario judicio adfuerint atque egerint, hujusmodi constituta, ut causidicum officii amissio, jurisconsultum existimationis et interdicti civitatis damna percellant.

laws made by Theodosius, Valentinian junior, and Marcian, to the same purpose; which the curious reader may find in Gothofred upon the forementioned law of Arcadius. It is true, the ecclesiastical law does not particularly specify these things; but we may suppose they, being great crimes, were included in the general notion of illegal oppression, which was thought to deserve ecclesiastical censure.

SECT. XIII.—*Of griping Usury and Extortion.*

But there is one sort of oppression which the laws of the Church more particularly take notice of, and condemn both in the clergy and laity; that is, griping usury or extortion upon the poor. The nature of usury, and the several degrees of it, I have had occasion already to explain¹ in a former book. All therefore I shall here take notice of, is, the censures of the Church passed upon all, that were guilty of what they reckoned cruel and criminal in it. The Council of Eliberis not only orders the clergy to be degraded, who were found guilty of taking usury, but threatens² excommunication to every layman that, after admonition, persisted in the practice of it. And the first Council of Carthage³ gives this reason why clergymen should not practise it: ‘Because it was a thing that was culpable in laymen.’ And the reason why it was so generally condemned by the ancients even in laymen, was, because it was generally a great oppression of the poor, to whom the charity of lending without usury was due; and many times it was attended with extortion, as in the centesimal interest, which was twelve in the hundred; and what they called ‘Hemiolia,’ which was receiving half as much more as the principal by way of interest; both which were condemned by the laws of the state as illegal exactions and downright

¹ Lib. vi. c. ii. § vi. vol. ii. p. 114.

² Concil. Illiberit. c. xx. (Labbé, vol. i. p. 973.) Si quis clericorum detectus fuerit usuras accipere, placuit eum degradari et abstineri(e). Si quis etiam laicus acceperit probatur usuras, et promiserit, correctus jam, se cessaturum, nec ulterius exacturum, placuit, ei veniam tribui. Si vero in ea iniquitate duraverit, ab ecclesia esse projiciendum.

³ Concil. Carth. I. c. xiii. (Labbé, vol. ii. p. 1826.) In nostro concilio statutum est, ut non liceat clericis fœnerare. . . . Proinde quod in laicis reprehenditur, id multo magis in clericis debet prædamnari.

extortion. Upon which bottom all the arguments and invectives of the ancients are founded. So that usury, in this sense, was reckoned a plain robbery of the poor, and a cruel oppression of those to whom mercy and charity ought to be shown upon all occasions. And to this we may join all extortion made by force or fear; which the civil law condemns and annuls,^e though a covenant of promise had been obtained of the injured party.

SECT. XIV.—*Of Forgery.*

The last sort of robbery was that which was committed by fraud and deceit, which the law calls ‘*Dolus malus, et Stellionatus*,’ from ‘*Stellio*,’ that little animal with shining spots like stars, the lizard, or tarantula; of which naturalists^f observe, that there is no animal which more fraudulently envies man than this: for changing his skin every year, which was reckoned a sovereign remedy against the falling-sickness, he devours it himself, lest men should have the benefit of it. Whence the lawyers call all imposture and fraud, which has no special title in law, by the name of ‘*Stellionatus*,’^g as Ulpian explains it. Thus if a man mortgage or pawn that which is already engaged, fraudulently dissembling the former obligation; or pass it away in exchange, or pretend to pay debts with it, when it is under a pre-engagement; all such frauds are called *Stellionatus*. So if a man change the wares which he has sold, or corrupt them, or direct them to another use after he has pawned them; or if he used any collusion

^e Cod. Theodos. lib. ii. tit. ix. de Pactis, leg. iv. (Lugdun. 1665. vol. i. p. 129.) *Pacta quidem per vim et metum apud omnes satis constat cassata viribus respuenda.*

^f Plin. lib. xxx. c. x. *Nullum animal fraudulentius invidere homini tradunt: inde stellionum nomen a iuncto in maledictum translatum, etc.*

^g Digest. lib. xlvii. tit. xx. *stellionatus*, leg. iii. (Amstel. 1663. p. 716.) *Stellionatum objici posse his qui dolo quid fecerunt, sciendum est: scilicet si aliud crimen non sit, quod objiciatur: quod enim in privatis judiciis est de dolo actio, hoc in criminibus stellionatus persecutio. Ubicumque igitur titulus criminis deficit, illic stellionatus objiciemus. Maxime autem in his locum habet, si quis forte rem alii obligatam dissimulata obligatione per calliditatem alii distraxerit, vel permutaverit, vel in solutum dederit: nam hæc omnes species stellionatum continent. etc.*

or imposture to compass the death of any man; this was reckoned a fraud of the same nature. If, in giving a pawn, he substituted brass in the room of gold; if he sold a freeman under the notion of a slave; if he received a sum of money as a debt that was really paid him before; he was liable to be punished upon an action of fraud upon the same^h title: and for his crime, if he was a plebeian, he might be condemned to the mines; if a person of quality, he might be sent into banishment, or be degraded. The instances of such frauds and collusions are too many and intricate to be here particularly recounted; but the chief of them may be summed up under these five titles: Forgery, Calumny, Flattery, Deceitfulness in trust, and Deceitfulness in traffic.

Forgery may be committed either in counterfeiting coin, to impose upon the unskilful and unwary; or else in counterfeiting deeds and instruments, to lay claim to other men's estates; as is done by those who make a title upon false wills or bonds, or conceal or corrupt the true ones. The counterfeiting of the coin was not only an injury to private men in commerce, but also an act of treason against the supreme powers: and therefore punished as a capital offence with confiscation, banishment, or death, and that sometimes of the cruellest sort, burning alive; as appears from several laws in the Theodosian Codeⁱ

^h Calvin. *Lexicon Jurid.* voce, *Stellionatus*. *Stellionatum* jureconsulti appellant fraudem omnem atque imposturam, quæ propriam significationem non habet, et in proprium delicti nomen non cadit, l. 7. § i ff. ad Turpill. veluti si quis rem alienam sciens obliget, vel alii jam pignoratam alii denuo obliget, vel pignore dando pro auro æs subjecerit, stellionatus crimen committit, l. i. ff. de stellionatu, l. 16. § 1. l. 36. ff. de pign. act. Similiter qui sciens statu liberum dissimulata ejus conditione vendit, vel creditor numeratam jam sibi pecuniam iterum accipiens, stellionatus crimine plectitur.

ⁱ Cod. Theod. lib. ix. tit. xxi. de falsa Moneta, leg. i. (Lugdun. 1665. vol. iii. p. 169.) Quicumque adulterina fecerit numismata, poenam pro discretionem sexus et conditionis suæ diversitate sustineat: hoc est, ut si decurio, vel decurionis sit filius, exterminatus genitali solo, ad quancunque in longinquo positam civitatem sub perpetui exilii conditione mittatur, aut super facultatibus ejus ad nostram Scientiam referatur. Si plebeius, ut rebus amissis perpetuæ damnationi dedatur: si servilis conditionis, ultimo supplicio subjugetur. Leg. ii. Quoniam nonnulli monetarii adulterina moneta (leg. adulterinam monetam) clandestinis sceleribus exercent, cuncti cognoscant, necessitatem sibi incumbere hujusmodi homines inquirendi, ut investigati tradantur judiciis. . . . Si miles aut promotus hujusmodi crimen incurrit, super ejus nomine et gradu ad nos refe-

made upon this occasion. Particularly Constantine,^k in one of his laws, orders such to be put to the sword, or burnt alive, or to be punished with some such violent death, whether they were guilty of clipping the coin, and diminishing its quantity, or adulterating its quality, and vending it as good by manifest fraud and imposture. And what the law punished thus severely in the state, there is no question but that it was, with equal severity in the spiritual way, censured and condemned as a fraud and robbery by the Church. The counterfeiting of false deeds, and especially false wills, was esteemed a heinous crime even by the old Roman laws, of which there is a whole title^l in the Pandects; one of which, related by the famous lawyer Julius Paulus, says,^m “Whoever conceals a will, or conveys it away, or destroys it, or puts another in its room, or cancels

ratur. Si dominum fundi vel domus conscium esse probabitur, deportari eum in insulam oportebit, cunctis ejus rebus protinus confiscandis: si vero eo ignaro crimen commissum est, possessionem aut domum debet amittere, in qua id scelus admissum est: actor fundi, vel servus, vel incola, vel colonus, qui hoc ministerium præbuit, cum eo qui fecit, supplicio capitali plectetur: nihilominus fundo, vel domo fisci viribus vindicanda. Quod si dominus ante ignorans, ut primum reperit, scelus prodidit perpetratum, minime possessio, vel domus ipsius proscriptionis injuriæ subiacebit; sed auctorem ac ministrum poena capitalis excipiet. Leg. iii. (p. 173.) Si quis nummum falsa fusione formaverit, universas ejus facultates fisco addici præcipimus, atque ipsum severitate legitima coërceri, ut in monetis tantum nostris cudendæ pecuniæ studium frequentetur. Leg. v. (p. 175.) Præmio accusatoribus proposito, quicumque solidorum adulter potuerit reperiri, vel a quoquam fuerit publicatus, illico omni dilatione submota, flammæ exustionibus mancipetur. Leg. vi. p. 176.) Comperimus, nonnullos Flaturarios Maiorinam pecuniam non minus criminose, quam crebre, separato argento ab ære, purgare. Si quis igitur posthæc fuerit in hac machinatione deprehensus, capitaliter se fecisse cognoscat, etc.

^k Cod. Theod. lib. ix. tit. xxii. (Lugdun. 1665. vol. iii. p. 181.) Si quis solidi circulum incidere, vel adulteratum in vendendo subjecerit, leg. i. Aut capite puniri debet, aut flammis tradi, vel alia poena mortifera. Quod ille etiam patietur, qui mensuram circuli exterioris adraserit, ut ponderis minuat quantitatem: vel figuratum solidum adultera imitatione in vendendo subjecerit. Vide sis Digest. lib. xiii. tit. vii. de pignoratitia Actione, leg. i. et xvi.

^l Digest. lib. xlviii. tit. x. de Lege Cornelia de Falsis. (Amstel. 1663. p. 730.)

^m Paulus, ibid. leg. ii. Qui testamentum amoverit, celaverit, eripuerit, deleverit, interleverit, subjecerit, resignaverit; quive testamentum falsum scripserit, signaverit, recitaverit dolo malo; cujusve dolo malo id factum erit, legis Corneliæ poena damnatur.

it; or whoever writes, or signs, or fraudulently produces a false will, is liable to be punished upon an action of forgery by the Cornelian law." And that punishment is either banishment,ⁿ or confiscation, or death, according to the quality of the offender. And by the laws of Constantine,^o the same punishments of banishment and death were awarded to this sort of forgery. And though the ecclesiastical laws do not particularly specify the punishment of this crime, yet they must be supposed to comprehend it under the general title of theft and robbery, which made men liable to ecclesiastical censure.

SECT. XV.—*Of Calumny with regard to men's estates and fortunes; and its reverse, the fraud of flattery.*

Another sort of fraud that might be committed against men, in order to rob them of their estates and fortunes, was impeaching them of feigned crimes by false accusation and calumny. This sometimes affected men's lives; and then it was a species of murder, and punished under that denomination, as has been showed before. Sometimes it affected their fame and reputation; and as such it will be considered hereafter. In this place we take it only as affecting men's estates and fortunes, and as an intention by fraud to rob them of their property and possessions. In which sense, the law sometimes takes calumny and false accusation, as a species of theft and robbery, and proscribes it under that title. As appears from that law of Valentinian and Gratian in the Theodosian Code, which joins these three sorts of calumny together,^p viz. against men's fame and reputation, against their fortunes, and against

ⁿ Ibid. leg. i. § 13. (p. 731.) *Pœna falsi, vel quasi falsi, deportatio est, et omnium bonorum publicatio: et si servus eorum aliquid admiserit, ultimo supplicio adfici jubetur.*

^o Cod. Theodos. lib. ix. tit. xix. (Lugdun. 1665. vol. iii. p. 159.) *ad legem Cornelianam de Falso, leg. ii. Capitali post probationem supplicio (si id exigat magnitudo commissi) vel deportatione ei, qui falsum commiserit, imminente.*—Vide Cod. Justin. lib. x. tit. xiii. *de his, qui se deferunt, leg. i. (Amstel. 1663. p. 312.) Occultator gestorum . . . in insulam deportetur, etc.*

^p Cod. Theod. lib. ix. tit. i. *de Accusationibus, leg. xi. Qui alterius famam, fortunas, caput denique et sanguinem in judicium devocaverit, sciat, sibi impendere congruam pœnam, si, quod intenderit, non probavit. (vol. iii. p. 15.)*

their lives: ordering, "that whoever impleaded another upon any of these three heads, should undergo the same penalty as he intended to bring upon the party he impeached, if he proved to be a false accuser, and did not fairly make out his action. Against such calumniators, fraudulent informers, and false accusers, (whose chief aim was, in a plausible way, and under pretence of legal process, to come at other men's estates) there are two^a or three whole titles more in the Theodosian Code, where such accusers and impeachers are called the bane of human life, and the common pest of mankind: and they are ordered to be prosecuted to the last degree with confiscation and death. The ecclesiastical law also enjoins them a severe penance. By a canon of the Council of Eliberis,^r "He that bears false witness against another to the loss of his life or liberty, is not to be received to communion even at his last hour:" and if it was in a lighter cause, as in a pecuniary matter or the like, he was to do penance for five years before he was reconciled and perfectly restored to the peace of the Church. St. Austin^s also reckons this sort of calumny among the species of robbery and oppression. And the author of the Constitutions,^t giving directions to the bishop what sort of persons he should reject from the communion, among others mentions 'soldiers who are false accusers, and not content with their wages, but oppress the poor.'

Adulation and flattery is the reverse of calumny; and yet by this means, some made a shift by fraudulent arts to get themselves made heirs to dying persons, to the prejudice of

^a Cod. Theod. lib. ix. tit. xxxix. de Calumniatoribus. It. lib. x. de Petitionibus et Delatoribus, leg. i. ii. iii. x. xxxiii. Et tit. xii. si vagum petatur mancipium. (vol. iii.)

^r Concil. Illiberit. c. lxxiii. (Labbé, vol. i. p. 978.) Delator si quis exstiterit fidelis, et per delationem ejus aliquis fuerit proscriptus vel interfectus, placuit eum nec [*non nisi*] in fine accipere communionem. Si levior causa fuerit, intra quinquennium accipere poterit communionem. Si catechumenus fuerit, post quinquennii tempora admittatur ad baptismum.

^s August. Epist. liv. ad Macedon. (Bened. 1700. vol. ii. p. 405. B.) (tom. ii. Opp. p. 250. a. edit. Basil. 1569.) Qui contra jus societatis humanæ, furtis, rapinis, calumniis, oppressionibus, invasionibus abstulerit, reddenda potius quam donanda censemus, Zachæi publicani evangelico exemplo, etc.

^t Constit. lib. iv. c. v. Καὶ στρατιῶτην συκοφάντην, μὴ ἀκούμενον τοῖς ὀφωνίοις, ἀλλὰ τοὺς πένητας διασεύοντα. (Labbé, vol. i. p. 330. D.)

those who had a more just and real title. To prevent which sort of fraud, Valentinian made a law,^u “that no ecclesiastical person or ascetic [for the fraud was chiefly committed by them] should clancularly resort to the houses of dying widows or orphans, to get their estates or any legacies to be settled upon them: which if they did, they were liable to be prosecuted at law by the deceased parties’ next relations; they were to enjoy nothing that they had so fraudulently obtained, under pretence of religion, from any such persons, either by way of donation and gift, or last will and testament; but the legal heirs might make their claim, and set aside all such legacies; or otherwise they were to be confiscated to the public.” There are two laws of Theodosius^x also much to the same purpose. And the fathers are so far from complaining of the seeming hardship of these laws, that they rather complain of the fraud, and avarice, and rapaciousness of those who gave occasion to these pious emperors to make such laws against them. St. Ambrose^y

^u Cod. Theod. lib. xvi. tit. ii. de Episcopis et Clericis, leg. xx. (Lugdun. 1665. vol. vi. p. 48.) Ecclesiastici, aut ex ecclesiasticis, vel qui Continentium se volunt nomine nuncupari, viduarum ac pupillorum domos non adeant: sed publicis exterminentur judiciis, si posthac eos adfines earum vel propinqui putaverint deferendos. Censemus etiam, ut memorati nihil de ejus mulieris, qui se privatim sub prætextu religionis adjunxerint, liberalitate quacumque, vel extremo judicio possint adipisci: et omne in tantum inefficax sit, quod alicui horum ab his fuerit derelictum, ut nec per subjectam personam valeant aliquid, vel donatione, vel testamento percipere. Quin etiam si forte post admonitionem legis nostræ aliquid isdem esse feminae, vel donatione, vel extremo judicio, putaverint relinquendum, id fiscus usurpet.

^x Ibid. leg. xxvii. (p. 60.) Si quando diem obierit, nullam ecclesiam, nullum clericum, nullum pauperem scribat heredes: careat namque necesse est viribus, si quid contra vetitum circa personas specialiter comprehensas fuerit a moriente confectum. Immo si quid ab his morienti fuerit extortum, nec tacito fidei commissio aliquid clericis in fraudem venerabilis sanctionis callida arte, aut probrosa cujuspiam conhibentia deferatur: extorres sint ab omnibus, quibus inhiaverant bonis, etc. Leg. xxviii. Legem, quæ diaconissis vel viduis nuper est promulgata, ‘Ne quis videlicet clericus, neve sub ecclesiæ nomine mancipia, suppellectilem, prædam, (velut infirmi sexus spoliator) invaderet, et remotis adfinibus ac propinquis, ipse sub prætextu catholicæ disciplinæ se ageret viventis hæredem,’ eatenus animadvertat esse revocatam, ut de omnium chartis, si jam nota est, auferatur: neque quisquam, aut litigator ea sibi utendum, aut judex noverit exsequendum.

^y Ambros. Serm. vii. de Clericis, p. 232. Nemo hos invasionis arguit, violentiæ nullus accusat? Quasi non interdum majorem prædam a viduis blan-

says, "Such men were guilty of violence, and invasion of the rights of others: they made a greater prey of widows by their blandishments and flatteries, than others did by torments: but it was all one before God, whether a man seized the substance of others by force, or by circumvention, so long as he detained what of right belonged to other men." In like manner St. Jerom: "I am ashamed^z to say, that the idol-priests and stage-players and horse-racers and harlots may be left heirs, whilst clerks and monks only are prohibited by this law; and that not by persecuting tyrants, but Christian princes. Neither do I complain of the law, but it grieves me to think we should deserve such a law. The caution of the law is provident and severe; and yet our covetousness is not restrained thereby. We evade the laws by feoffments in trust: and as if the edicts of emperors were greater than those of Christ, we are afraid of their laws, whilst we condemn the gospels." It is evident by these complaints made by these holy fathers, that this fraudulent way of catching at the estates of widows by fawning arts and assentation (whence these flattering hypocrites were commonly called 'Hæredipetæ,' and 'Captatores') was esteemed no less a theft, than that which was committed by open violence and oppression. This was a scandalous sort of theft even among the heathens. Juvenal^a often spends his satirical wit

dimenta eliciant quam tormenta: non interest apud Deum, utrum vi an circumventionem quis res alienas occupet, dummodo quoquo pacto tenet alienum.

^z Hieron. Epist. ii. ad Nepotian. (Venet. 1766. vol. i. p. 260, at bottom.) Pudet dicere, sacerdotes idolorum, mimi et aurigæ, et scorta, hæreditates capiunt: solis clericis ac monachis hoc lege prohibetur: et prohibetur non a persecutoribus, sed a principibus Christianis. Nec de lege conqueror; sed doleo, cur meruerimus hanc legem. . . . Provida severaque legis cautio, et tamen nec sic refrænatur avaritia. Per fidei commissæ legibus illudimus: et quasi majora sint imperatorum scita, quam Christi, leges timemus, et evangelia contemnimus. It. epist. iii. ad Nepotian. (p. 22. g. edit. Paris. 1643.) Alii nummum addant nummo et in marsupium suffocantes matronarum opes venenatur obsequiis, etc.—It. Leo et Majorin. novell. viii. Insidiosa munuscula diriguntur, subornantur medici, qui prava persuadeant, etc.

^a Juvenal. Satir. v. 97, 98.

sumitur illinc

Quod captator emat Lenas, Aurelia vendat.

upon it: and so does Martial, and Seneca, and Pliny, and Lucian,^b and many others. Which makes it less wonder, that the Christian laws should proscribe it, and the fathers so sharply inveigh against it, even when it looked like a means of augmenting the revenues of the Church. But that shows the purity of the ancient discipline, that they would not spare a crime that could appear with so fine an aspect; being utter enemies to all scandalous and disreputable ways of increasing the clerical maintenance; as I have had occasion to show in several instances, in speaking more particularly of the revenues of the Church.

SECT. XVI.—*Of Deceitfulness in Trust.*

Another sort of fraud is committed in matters of trust, as when a steward or servant embezzles his master's goods, or makes fraudulent and injurious bargains for him; or when a guardian or tutor is entrusted with the execution of a dead man's will, acts an unfaithful part, and enriches himself out of what was designed for the maintenance of others; or when a man denies or conceals or refuses to restore any thing that was deposited with him, and committed to his trust. The ancients were extremely conscientious in this last instance of things committed to their trust; insomuch as that Pliny himself can inform us, that "it was one part of their solemn business, every Lord's-Day, to bind themselves with a sacrament, or an oath,

Id. Satir. vi. 38. seq.

. tollere dulcem
Cogitat hæredem cariturus turture magno,
Mullorumque júbis, et captatore macello.

Id. Satir. x. 201, 202.

Usque adeo gravis uxori, natisque, sibique,
Ut captatori moveat fastidia Cosso.

^b Vide Calvin. Lexic. juridic. voce Captare. Erant Romæ, qui senes orbos ac locupletes obsequio demereri studebant, ut ex eorum testamentis aliquid ferrent, quique etiam palam consignatis tabulis eos hæredes faciebant, quo ad eandem liberalitatem jamjam morituros provocarent. Cujusmodi captatoria officia ridet Lucianus in Dialogis Mortuorum, his verbis: "Ἐδοξε δέ μοι, αἰτ, καὶ σοφὸν τοῦτ' εἶναι, θέσθαι διαθήκας ἐς τὸ φανερόν ἐν αἷς ἐκείνῃ καταλείπειν τὰμὰ πάντα, ὡς κάκεινος ζηλώσας καὶ τὰ αὐτὰ πράξει.

not to commit any wickedness, theft, robbery, adultery; not to falsify their word, not to deny any thing wherewith they were entrusted,^c when they were required to deliver it up again." And therefore we may reasonably conclude, that no one was thought qualified for communion in such a society, who was guilty of breach of faith in any such trust, which was both against the laws of common justice, and his own solemn engagement. Some trusts were of a more sacred nature, being designed for the service of God and the poor: and unfaithfulness in such trusts was therefore reckoned a double and a triple crime, because it added, as it were, murder and sacrilege to the injustice. Upon this account the fourth Council of Carthage^d calls those who endeavour to defraud the Church of such legacies or oblations as were left her by the dead, 'murderers of the poor;' because their robbing the Church of that which was given for the maintenance of the poor, was in effect to starve and famish the poor: and for such fraud and cruelty they are subjected to the censure of excommunication. Among the epistles of Cyprian, there is a letter of Cornelius bishop of Rome^e to Cyprian, giving him an account of one Nicostratus a deacon, whom he charges with this sort of fraud: for he had not only cheated his temporal patroness, whose affairs he managed, but had carried away a great part of the revenues of the Church, which was entrusted with him as archdeacon for the maintenance of poor widows and orphans; for which crime he was forced to fly from Rome, for fear of being called to give an account of his rapine and sacrilege. And Cyprian himself in another epistle,^f giving an

^c Plin. lib. x. epist. xcvii. See vol. vii. p. 14.

^d Concil. Carthag. IV. can. xcvi. (Labbé, vol. ii. p. 1207.) Qui oblationes defunctorum aut negant ecclesiis, aut cum difficultate reddunt, tamquam egen-
tium necatores excommunicentur.

^e Cyprian. Epist. xlviii. al. l. (Oxon. 1682. p. 94.) Invigiletur, ut omnibus coëpiscopis nostris et fratribus innotescat, Nicostratum multorum criminum reum, et non solum patronæ suæ carnali, cujus rationes gessit, fraudes et rapinas fecisse; verum etiam, quod est illi ad perpetuam poenam reservatum, ecclesiæ deposita non modica abstulisse.

^f Cyprian. Epist. xlix. al. lii. ad Cornel. (Oxon. 1682. p. 97.) (p. 238, edit. Amstel. 1700.) Spoliati ab illo pupilli, fraudatæ viduæ, pecuniæ quoque ecclesiæ denegatæ, has de illo exigunt poenas, quas in ejus furore conspiciamus. Pater etiam ejus in vico fame mortuus, et ab eo in morte postmodum nec sepultus.

account to Cornelius of the wickedness of Novatus, says, “he had defrauded the widows and orphans, and denied the Church’s revenues, which were entrusted with him; for which and many other crimes, as starving his own father, and causing his wife by a sudden blow to miscarry, he had certainly been removed not only from his seat in the presbytery, but from all communion with the Church, had not the approach of a fierce persecution put a stop to his trial and condemnation.” By which it appears, that there was no crime more heinously resented than this of unfaithfulness in trust; nor any more severely pursued and punished by the censures of the Church.

SECT. XVII.—*Of Deceitfulness in Traffic.*

The last sort of fraud is that which is committed in traffic and commerce between buyer and seller. The buyer may be guilty either in taking advantage of the ignorance of the seller, when he knows not the true value of his own goods; or in taking advantage of his necessity, when his poverty compels him to sell at an under-rate; or in paying him in false and corrupt coin, which is the same thing as defrauding him in the original contract. This last sort of fraud was severely punished by the Roman laws, both heathen and Christian. For the vender, as well as the forger of false coin, is condemned in all the penalties of fraud recounted in the Pandects.^s And Con-

Uterus uxoris calce percussus, et abortione properante in parricidium partus expressus... Hanc conscientiam criminum jam pridem timebat, propter hoc se non de presbyterio excitari tantum, sed et communicatione prohiberi pro certo tenebat; et urgentibus fratribus imminabat cognitionis dies, quo apud nos causa ejus ageretur, nisi persecutio ante venisset.

^s Digest. lib. xiii. tit. vii. (Amstel. 1663. p. 221.) De pigneratitia Actione, leg. i. Pignus contrahitur non sola traditione, sed etiam nuda conventionione, etsi non traditum est. Si igitur contractum sit pignus nuda conventionione, videamus, an, si quis aurum ostenderit, quasi pignori daturus, et æs dederit, obligaverit aurum pignori? Et consequens est, ut aurum obligetur, non autem æs: quia in hoc non consenserint. Si quis tamen, quum æs pignori daret, affirmavit hoc aurum esse, et ita pignori dederit, videndum erit, an æs pignori obligaverit: et numquid, quia in corpus consensum est, pignori esse videatur? quod magis est: tenebitur tamen pigneratitia actione qui dedit: præter stellionatum, quem fecit. Lib. xliii. tit. x. ad legem Corneliam de Falso, leg. ix. Lege Cornelia cavetur, ut qui in aurum vitii quid addiderit, qui argenteos nummos adulterinos flaverit, falsi crimine teneri... Eadem lege exprimitur, ne quis nummos stagnæos, plumbeos emere vendere dolo malo vellet.

stantine made it a capital crime^h not only for any one to adulterate, or clip, or diminish the coin; but also to pass any such away knowingly in payment to others, to put a wilful cheat upon them. And though this be not expressly and particularly specified in the ecclesiastical law, yet being a principal fraud, it must be comprehended under the general title of frauds, which came under the cognizance of the spiritual jurisdiction. For fraud was always reckoned a crime of the first magnitude; St. Austinⁱ puts it in the same class with murder, adultery, fornication, theft, and sacrilege: and Tertullian joins it^k with the great sins of blasphemy, idolatry, apostasy, murder, and adultery, which defile the temple of God, and unqualify men for Christian communion. As to the buyer's overreaching the seller by taking advantage of his ignorance or unskilfulness in the just value of his commodity, this being a thing not easy to be discovered or proved, it may be supposed to be a fraud rather left to his own conscience, than ordinarily brought under public discipline. Yet certain it is, a conscientious man will not load his soul even with this guilt. St. Austinⁱ gives a rare instance of singular justice in this

^h Cod. Theod. lib. ix. tit. xxii. (Lugdun. 1665. vol. iii. p. 181.) Si quis solidi circulum inciderit, vel adulteratum in vendendo subjecerit, leg. i. Capite puniri debet, aut flammis tradi, vel alia poena mortifera, si quis mensuram circuli exterioris adraserit, vel figuratum solidum adultera imitatione in vendendo subjecerit.

ⁱ Aug. Tract. xli. in Joan. tom. ix. p. 126. (p. 308, edit. Basil. 1569.) cit. supra § iv. litt. (h) p. 279.

^k Tertull. de Pudicit. c. xix. (Paris. 1664. p. 582. B 9.) Sunt et contraria istis [delictis quotidianæ incursionis] ut graviora et exitiosa, quæ veniam non capiant, homicidium, idololatria, fraus, negatio, blasphemia, utique et moechia et fornicatio, et si qua alia violatio templi Dei. Id. advers. Marcion. lib. iv. c. ix. (p. 419. C 11.) Si Heliseus propheta creatoris unicum leprosum Naaman Syrum ex tot leprosis Israëlitis emundavit, nec hoc ad diversitatem facit Christi; quasi hoc modo melioris, dum Israëlitem leprosum emundavit extraneus, quem suus dominus emundare non valuerat; Syro facilius emundato, significato per nationes emundationis in Christo lumine earum, quæ septem maculis capitalium delictorum inhorrent, idololatria, blasphemia, homicidio, adulterio, stupro, falso testimonio, fraude.

^l Aug. de Trinit. lib. xiii. c. iii. (Bened. 1700. vol. viii. p. 659. A 13.) Et mimus quidem ille vel se ipsum intuendo, vel alios quoque experiendo, vili velle emere et caro vendere, omnibus id credidit esse commune. . . . Scio ipse hominem, quum venalis codex ei fuisset oblatu, pretiique ejus ignarum et ideo quiddam

case. He says, he knew a man, who, having a book offered him to be sold at an under-rate, by one who understood not the true value of it, gave him the just price of it; surprising him by an uncommon generosity and equity, which allows no man to take advantage of another's ignorance; though it be against the general maxim of the world, which "loves to buy cheap, and sell dear" (as the mimic said, when he undertook to divine and tell all men their wishes) whatever evil consequences may attend it.

On the other hand, fraud may be committed also by the seller, and that several ways; either by over-rating the commodity to the ignorant and necessitous buyer, which is also extortion and oppression; or by vending corrupt wares, which are not really and truly what they are said or appear to be, which is a fraud in the quality; or by using false weights and measures, which is a fraud in the quantity of the thing contracted for, and which is commonly branded with this note in Scripture, that "it is an abomination to the Lord." The old Roman^m laws were exceeding careful about this matter of just weights and measures. The ediles were obliged to examine them; the standards of both were religiously kept in the Capitol: and thence, afterward in Christian times, they were removed and placed under the custody of bishops in the churches; as appears from Justinian'sⁿ Pragmatic Sanction, and one of his Novels^o to this purpose. Every city, and man-

exiguum poscentem cerneret venditorem, justum pretium quod multo amplius erat, nec opinanti dedisse.

^m Vide Digest. lib. xlviii. tit. x. ad legem Corneliam de Falso, leg. xxxii. (Amstel. 1663. p. 733.) Si venditor mensuras publice probatas vini, frumenti, vel cujuslibet rei, aut emptor corruperit, dolove malo fraudem fecerit; quanti ea res est, ejus dupli condemnatur: decretoque divi Hadriani præceptum est, in insulam eos relegari, quod pondera aut mensuras falsassent.

ⁿ Justin. Pragmat. Sanct. c. xix. Ut nulla fraudis vel læsionis provinciarum nascatur occasio, jubemus in illis mensuris vel ponderibus species vel pecunias dari vel suscipi, quæ beatissimo papæ vel amplissimo senatui nostra Pietas in præsentem contradidit.

^o Justin. Novell. cxviii. c. xv. (Amstel. 1663. p. 181.) Τοὺς δὲ τὰ δημόσια τέλη εισπράττοντας, δικαίους σταθμοῖς τε καὶ μέτροις κεχρηῆσθαι κελεύομεν ἵνα μηδὲ ἐν τούτῳ τοὺς ἡμετέρους ὑποτελεῖς ἀδικῶσιν. εἰ δὲ οἱ συντελεσται νομί- σουσι βαρεῖσθαι εἴτε ἐν σταθμοῖς εἴτε ἐν μέτροις, ἐχέτωσαν ἄδειαν τὰ μὲν τῶν εἰδῶν μέτρα τε καὶ σταθμὰ παρὰ τῶν ἐνδοξοτάτων ὑπάρχων, τὰ δὲ τοῦ χρυσοῦ

sion, or place of custom, had likewise their public standards, as well to prevent the frauds of the exactors of tribute, as those of others in private contracts one with another. To which purpose, there are several laws of Theodosius,^p and Honorius,^q and Valentinian III.,^r and Majorian^s in the Theo-

καὶ τοῦ ἀργυρίου καὶ τῶν λοιπῶν μετάλλων σταθμὰ παρὰ τοῦ κατὰ καιρὸν ἐνδοξοτάτου κόμητος τῶν θείων λαργιτιῶνων λαμβάνειν· καὶ τὰ αὐτὰ μέτρα καὶ σταθμὰ ἐν τῇ ἀγιωτάτῃ ἐκάστης πόλεως ἐκκλησίᾳ φυλάττεσθαι ἵνα καὶ ταῦτα δίχα βάρους τῶν συντελεστῶν, καὶ ἡ τῶν δημοσίων εἰσκομιδὴ, καὶ αἱ στρατιωτικαὶ καὶ αἱ ἄλλαι δαπάναι γίνωνται.

^p Cod. Theod. lib. xii. tit. vi. de Susceptoribus, leg. xix. (Lugdun. 1665. vol. iv. p. 551.) In singulis stationibus et mensuræ et pondera publice collocentur, ut fraudare cupientibus fraudandi adimant potestatem. Leg. xxi. Modios æneos seu lapideos, cum sextariis atque ponderibus per mansiones singulas, quasque civitates, jussimus conlocari, ut unusquisque tributarius, sub oculis constitutis rerum omnium modis, sciat quid debeat susceptoribus dare, etc.

^q Cod. Theod. lib. xi. tit. viii. de Super-exactionibus, leg. iii. (Lugdun. 1665. vol. iv. p. 84.) Velut licito committi, frequenti læsorum deploratione didicimus, ut majoribus subjectis mensuris atque ponderibus gravi possessor damno quatiatur : jubemus, ut cura et solertia defensorum hoc fieri a susceptoribus non sinant, deprehensosque ad judicium dirigant, cum ipso fraudis commissæ indicio idem fieri notum est, &c.

^r Cod. Theod. lib. xii. tit. vi. de Susceptoribus, leg. xxxii. (Lugdun. 1665. vol. iv. p. 561.) Aurum sive argentum quumque [i. e. quodcumque] a possessore confertur, arcarius vel susceptor accipiat : ita ut provinciæ moderator ejusque Officium ad crimen suum noverit pertinere, si possessoribus ullum fuerit ex aliqua ponderum iniquitate inlatum pondendum, etc. It. Novell. Valentin. et Theodos. xxv. de pretio solidi. De ponderibus quoque ut fraus penitus amputetur a nobis aguntur exagia, quæ sub interminatione superius comprehensa sine fraude debeant custodiri.

^s Majorian. novell. i. Illis quoque fraudibus obviandum est, quas in varietate ponderum exactorum calliditas facere consuevit, qui vetustis caliginibus abutentes, Faustinae aliorumque nominum nescientibus faciant mentionem. Quibus penitus amotis, atque in perpetuum hac lege damnatis, a prætoriana sede ad singulas non solum provincias, sed etiam civitates pondera examinata mittantur : quibus tam omnis exactor quam negotiator utatur, capitale sibi sciens unusquisque supplicium, si constituta transcenderit. Vide Sidon. Apollin. lib. v. epist. vii. Hi sunt, qui invident . . . arcariis pondera, mensuras allectis. Cassiodor. lib. v. epist. xxxix. Exigentes assem publicum per gravamina ponderum, premere dicuntur patrimonia possessorum : ut non tam exactio, quam præda esse videatur. Sed ut totius fraudis abrogetur occasio, ad libram cubiculi nostri, quæ vobis in præsentia data est, universas functiones publicas jubemus inferri. Quid enim tam nefarium, quam præsumptoribus liceat in ipsa etiam trutinæ qualitate peccare ? Id. lib. xi. epist. xvi. Initium a libra faciemus, quia ubi conscientiam fas est intendere, inde debet sermo judicis inchoare. Hinc est, quod in ponderibus atque mensuris vos suggeritis ingravatos : et ideo nostra cura providebit, ut nullius vos ulterius ex ea parte vexare possit ini-

dosian Code. And very severe and capital punishments are there appointed for all such as were found guilty of fraud in altering or corrupting the public standard. The Church has not many particular laws about this in her discipline: but it being a flagrant crime in the eye of the state, we may presume she punished offenders in this kind by the general laws against fraud, without specifying all particular cases. The author of the Constitutions^t gives a general rule about this matter, when he orders the bishop to reject the oblations of all such as were noted by the common name of *ράδιουργοί*, fraudulent dealers. And he more particularly marks the *δολομέτραι*, those that used fraud in measures; and the *ζυγοκρούσται*, that is, such as though they did not use false weights and balances of deceit, yet used a more sly art and fraud, in giving a turn to the scale with their fingers, to gain that by artifice and sleight of hand in weighing, which they durst not venture to do by false weights. Constantine also takes notice^u of this fraud in one of his laws, where he forbids the receivers of tribute to use any art with their fingers to press down the scale, but to be exact in poising and libration, that no one might complain of any injustice done him. And it is observable, that Julian,^x to prevent such frauds in weighing, appointed a standing officer in every city (whom he calls by a Greek name, ‘Zygostates,’ that is, the public weigher, or supervisor of the scale) who was to determine all controversies arising about weight between buyer and seller, and put an end to them by examining what was suspected by the public standard. And the care of an

quitas. Quia grave scelus esse judicamus, aut mensuras modum excedere, aut libram æquissimi ponderis justitiam non habere.

^t Constit. lib. iv. c. v. Παραιήση δὲ καὶ ῥαδιουργοὺς . . καὶ ζυγοκρούστας καὶ δολομέτρους. (Labbé, vol. i. p. 330. D.)

^u Cod. Theod. lib. xii. tit. vii. de Ponderatoribus, leg. i. (Lugdun. 1665. vol. iv. p. 563.) Aurum quod infertur, æqua lance et libramentis paribus suscipiatur: scilicet, ut duobus digitis summitas lini retineatur, tres reliqui liberi ad susceptorem emineant, nec pondera depriment, nullo examinis libramento servato, nec æquis ac paribus suspenso statere momentis.

^x Ibid. leg. ii. (Lugdun. 1665. vol. iv. p. 566.) Placet, quem sermo Græcus appellat, per singulas civitates constitui zygostaten; qui pro sua fide atque industria, neque fallat neque fallatur, ut ad ejus arbitrium atque ad ejus fidem, si qua inter vendentem emtoremque in solidis exorta fuerit contentio, dirimatur.

heathen emperor to correct frauds and abuses of this nature, made it more reasonable for the Church to look into them, and bring delinquents of this kind under penance by the power of ecclesiastical censure.

The author of the Constitutions likewise takes notice of the other sort of fraud, which may be committed in traffic by dissembling the ill qualities of things and vending corrupt wares under the notion and appearance of that which is perfect and good: as when a man puts off brass for gold, or a mixture of water or other liquor for pure wine. Therefore in his directions to the bishop, whose oblations he shall receive, and whose refuse at the altar, he says, those he shall reject in the first place, whom the Greeks call *κάπηλοι*; and the Latins, ‘*Caupones*’; by which he does not mean victuallers strictly, or merchants or tradesmen in general, though the words be so sometimes taken; but fraudulent hucksters, who corrupt and adulterate their wares, to make the greater gain and advantage of them. As appears from that passage, which, according to the Septuagint, he quotes out of Isaiah, i. 22. *οἱ κάπηλοι σου μίσγουνσι τὸν οἶνον τῷ ὕδατι*, “Thy hucksters mingle wine with water.” Lactantius^y argues this point acutely against Carneades the heathen philosopher, who taught, that if a man has a fugitive slave, or an infected and pestilential house, which he sets to sale, he is bound in prudence not to discover their faults; because if he does, he shall either sell them for little, or not at all: which he calls poisonous doctrine; and shows it at large to be both against the rules of Christian justice and prudence also. For nothing can be more valuable to a man than keeping innocence and a good conscience. Upon this account, St. Hilary^z says, “Whoever either designs or commits fornication, or murder, or theft, or fraud, or rapine, makes his body a den of thieves.” Some of the ancients indeed^a are

^y Lactant. lib. v. c. xvii. et xviii.

^z Hilar. in Psalm. cxviii. v. 139. p. 278. (Venet. 1749. vol. i. p. 301.) *Corpora, quum cogitamus atque agimus stupra, cædes, furta, falsitates, rapinas, speluncam latronum constituimus.*

^a Tertull. de Idololatr. c. xi. (Paris. 1664. p. 91. C 7.) *Negotiatio servo Dei apta est? Ceterum si cupiditas abscedat quæ est causa acquirendi, cessante causa acquirendi, non erit necessitas negotiandi.* Epiphani. Exposit. Fid. § xxiv. *Πραγματευτὰς οὐκ ἀποδέχεται, ἀλλὰ ὑποδεστέρους πάντων ἡγίται.* Auct. operis

a little more severe against negotiating in any trade, except a manual art, for gain, because of the danger of fraud, that sticks so close between buying and selling: but Pope Leo^b more favourably distinguishes between honest and filthy gain, and says, "the quality of the gain either excuses or condemns the tradesman." So that it was not all trade and merchandize that they condemned as simply unlawful in itself, but only when it was accompanied with such fraudulent practices, as made it an unconscionable gain, and no better than a plausible theft, and more artificial way of robbery.

The last sort of fraud in the seller is committed by overrating his commodity; which is done either by monopolizers, when a single man, or a body of men, get the sole power and propriety of any commodity into their own hands, and set what arbitrary price they please upon it; or when the seller takes the advantage of the ignorance or necessity of the buyer to enhance his price, and make a gain of his weakness, his poverty, or his indiscretion. Against the fraud of monopolizers, there is a famous law of the emperor Zeno^c in the Justinian Code,

imperf. in Matt. xxi. 12. (Inter opera Chrysost. tom. ii. p. 102, edit. Francof.) 'Ejiciebat vendentes et ementes de templo.' Significans, quia homo mercator vix aut nunquam potest Deo placere. Et ideo nullus Christianus debet esse mercator: aut si voluerit esse, projiciatur de ecclesia Dei, dicente propheta, 'Quia non cognovi negotiationes, introibo in potentia Domini.' Psalm. lxx. 16. etc.

^b Leo, epist. xcii. ad Rustic. c. xi. (Lugdun. 1700. vol. i. p. 208.) Qualitas lucri, negotiantem aut excusat, aut arguit: quia est honestus quæstus, aut turpis.

^c Cod. Justin. lib. iv. tit. lix. (Amstel. 1663. p. 139.) de Monopoliis, leg. i. Jubemus, ne cujuscumque vestis, vel piscis, vel pectinum forte, aut echini, vel cujuslibet alterius ad victum, vel ad quemcumque usum pertinentis speciei, vel cujuslibet materiæ, pro sua auctoritate, vel sacro jam elicito, aut in posterum eliciendo rescripto, aut pragmatica sanctione, vel sacra nostræ pietatis adnotatione, monopolium audeat exercere: neve quis illicitis habitis conventionibus conjuret, aut paciscatur, 'ut species diversorum corporum negotiationis, non minoris quam inter se statuerint, venundentur.' Ædificiorum quoque artifices, vel ergolabi, aliorumque diversorum operum professores, et balneatores penitus arceantur pacta inter se componere, 'Ut ne quis, quod alteri commissum sit, opus impleat, aut injunctam alteri sollicitudinem alter intercipiat: data licentia unicuique, ab altero inchoatum et derelictum opus, per alterum sine aliquo timore dispendii implere, omniaque hujusmodi facinora denunciandi sine ulla formidine, et sine judiciariis sumtibus. Si quis autem monopolium ausus fuerit exercere, bonis propriis exspoliatus, perpetuitate damnetur exilii. Ceterarum professionum primates, si in posterum aut super taxandis rerum pretiis, aut

where he first forbids any single man to monopolize any wares under the penalty of confiscation of all his goods, and perpetual banishment of his person: and then proceeds to inhibit any body of men to combine in any unlawful contract not to sell their goods but at a certain rate, under the penalty of forfeiting forty pound of gold. He likewise prohibits all artificers and workmen from combining among themselves, that if any one undertook a work for another man, and left it unfinished, no one of the same occupation should meddle with it to finish it without the consent of the first undertaker: which was an art of raising their labour to what arbitrary price they were pleased to set upon it. To obviate which fraud, and the difficulty which honest men thereby lay under, he dissolved all such unlawful contracts and combinations, and left men at perfect liberty, when they were deserted by one workman, to employ another, without any fear or molestation arising from the pretence of any pre-engagement.

The other way of enhancing the price, by the seller's taking advantage of the buyer's ignorance or indiscretion, is what no laws could well provide against in all cases: and therefore it was rather left to the equity and conscience of men, to be examined and judged by the divine law, than brought under any certain rules of human judgment. However, being a species of fraud, and extortion, and oppression, it is probable the governors of the Church took occasion in many notorious cases to condemn it under the general title of *ῥαδιουργία*, that base craft, and gain that is gotten by imposture in any kind: for which the bishop, in the Constitutions,^d is required to debar men from making their oblations at the altar.

And to this head may be reduced the selling of that to which the seller himself has no just title; as the selling of fugitive slaves belonging to another master, which the law forbids:^e both because it is a sort of plagiarism in the seller, and an im-

super quibuslibet illicitis placitis, ausi fuerint convenientes hujusmodi sese pactis constringere, quadraginta librarum auri solutione percelli decernimus.

^d Constit. lib. iv. c. v. vide sub litt. antec. (t) p. 308.

^e Cod. Justin. lib. ix. tit. xx. ad legem Fabiam de Plagiar. leg. vi. (Amstel. 1663. p. 297.) In fuga servum constitutum, neque vendere, neque donare licet.

sition upon the buyer, and an encouragement to the slaves to rob and pillage, and desert their proper masters. Such is also the selling things of no real worth, but a mere fraud and imposture; as, the taking money for calculating nativities, and telling of fortunes, and divining for things lost, and many the like vain practices, which the canons condemn, not only as curious and superstitious arts, but as fraudulent^f and cheating tricks, imposing upon men by cozenage and imposture. All which, and a thousand other ways of pillaging, oppressing, and defrauding, the Church in her discipline censured as direct methods of committing theft and robbery.

SECT. XVIII.—*Of abetting and concealing Robbers; and buying stolen goods, &c.*

But besides the direct ways of committing this sin, there were several other base and disallowable practices, which virtually and by just construction might be interpreted theft: as the harbouring, abetting, and concealing robbers; buying of stolen goods; leading an idle life without any lawful vocation; spending in prodigality or unlawful gaming that which was designed for the maintenance of others. All which either the laws of Church or state censured as so many indirect ways of encouraging or committing robbery. The laws of the state laid a severe penalty upon all that sheltered any criminals in any kind whatsoever. Valentinian in one law condemns them as associates^g with the criminals, and makes them liable to the same punishment. In another^h law, he particularly condemns such as harbour robbers and screen them from public justice; making them liable either to corporal punishment, or confiscation of all their goods, according to the quality of their

^f Concil. Trull. c. lxi. cit. supra ad c. v. § vi. litt. (h) et (i) p. 68.

^g Cod. Theod. lib. ix. tit. xxix. leg. i. (Lugdun. 1665. vol. iii. p. 221.) Eos, qui secum alieni criminis reos occultando sociarunt, par atque ipsos reos poena exspectet.

^h Ibid. leg. ii. (Lugdun. 1665. vol. iii. p. 222.) Latrones quisquis sciens susceperit, vel offerre judiciis supersederit, supplicio corporali aut dispendio facultatum, pro qualitate personæ ex judicis æstimatione, plectatur. Si vero actor, sive procurator latronem, domino ignorante, occultaverit, et judici offerre neglexerit, flammis ultricibus concremetur.

persons. And if any agent or steward sheltered them without his lord's knowledge, he was to be burnt alive. There is another law of Marcian to the same effect in the Justinian¹ Code, showing how men are to be treated who entertain robbers, and use force to protect and defend them.

They who bought stolen goods, knowing them to be such, were also deemed guilty of partaking in the theft; because this was an encouragement to robbers, and a sort of approbation of them. St. Chrysostom^k and St. Austin¹ make this remark upon those words of the Psalmist, 'When thou sawest a thief, thou consentedst unto him,' that "to show a liking to the thief, is the same thing as committing the robbery." And certainly, none can show a greater liking to him, than he who for a little filthy lucre gives encouragement to him by 'trafficking and negotiating' with him; as some critics observe the Arabic translation literally renders the phrase of the Psalmist. There is but one case in which the casuists allow men to buy of a known thief; and that is when he can do it for a small matter with an intent to restore what is stolen to the true owner. For in that case, he intends not the encouragement of the thief, but the interest and advantage of the just proprietor. And for this they

¹ Vide Cod. Justin. lib. ix. tit. xxxix. (Amstel. 1663. p. 302.) de his, qui latrones occultaverint, leg. ii. Si qui latrones, seu alii criminibus obnoxii, in possessione degunt seu litant: dominus possessionis si præsto est, aut procuratores, si dominus abest, seu primates possessionis ultro eos offerant: aut si scientes hoc sponte non fecerint, conveniantur a civili officio, ut tradant provinciali judicio eos qui requiruntur, sub examine judicis arguendos, et pœnas post documenta congruas subituros. Si vero exhibere eos domini, vel procuratores, aut primates possessionis distulerint; tunc ad detinendos eos [adito] rectore provinciæ omnia civilia dirigantur auxilia.

^k Augustin. in Psalm. xlix. tom. viii. p. 194. (p. 478, edit. Basil. 1569.) (Bened. 1700. vol. iv. p. 842. C 7.) Si videbas furem, concurrebas ei, etc.] Ne forte dices, Non feci furtum, non feci adulterium. Quid si placuit tibi, qui fecit? Nonne ipso placito concurristi? Nonne portionem tuam cum illo qui fecit, laudando posuisti? Hoc est enim, fratres, concurrere cum fure, et ponere cum adultero portionem tuam: quia etsi non facis, et laudas quod fit, adstipulator es facti, quoniam laudatur peccator in desideriis animæ suæ, et qui iniqua gerit, benedicitur. Non facis mala, laudas mala facientes.

¹ Chrysost. in loc. tom. iii. p. 301. D. (p. 261, edit. Francof.) Τοῦτο πάντων αἴτιον τῶν κακῶν τοῦτο μάλιστα ἐστὶ τὸ ἀνατρέπον ἀρετὴν, τὸ ἐκλύον τὴν περὶ τὰ καλὰ τῶν πολλῶν σκουδὴν, ὅταν μὴ μόνον μὴ ἐπιτιμῶσι τινες, ἀλλὰ καὶ συνήδωνται τοῖς ἀμαρτάνουσι· τοῦτο τοῦ ἀμαρτάνειν οὐκ ἔλαττον.

allege¹ the known rules of the civil law. But in all other cases, to negotiate with thieves is to partake in their sin, and to encourage and strengthen them in their subsequent villanies. Therefore this and all other ways of partaking and co-operating with thieves (of which there are various methods noted and summed up by the doctors^m in the schools)ⁿ were anciently computed in the general account of theft and fraud; and accordingly punished with ecclesiastical censure.

SECT. XIX.—*Idleness censured as the Mother of Robbery.*

Neither was it only the associating and partaking with robbers, which they thus condemned, but all such unlawful vocations, or rather want of vocation, as put men, in a manner, upon the necessity of stealing, and having recourse to fraud and violence, as the only support of a dissolute life. Idleness they esteemed the mother and nurse of theft, and a life without employment as no better than that of a common robber; because men of that character were only ‘fruges consumere nati,’ born to devour that which, of right, belonged to others. Therefore the laws both of Church and state are very severe against all such. There is a law of Valentinian junior in the Theodosian Code,^o against young, stout, lusty beggars, who

¹ Vide Lessium de Jure et Justit. lib. ii. xiv. p. 171. (p. 156, edit. Lovan. 1605.) Dubitatio iv. Utrum si dubites, an res sit aliena, possis eam accipere, retinere, alienare? Qui dubitat, utrum res sit aliena, potest nihilominus eam accipere titulo donationis, permutationis, emtionis, etc. modo eo animo accipiat, ut eam domino, si post diligentem inquisitionem invenerit, restituat. Ratio est, quia in hoc nullam facit domino injuriam, sed beneficium; nam aliquin fortassis numquam fuisset restituenda.

^m Aquin. quæst. lxii. artic. vii. Conclusio: In multis casibus etiam is, qui per se non fecit rei ablationem, tenetur tamen ipsi damnificato ad rei ablatae restitutionem, etc.

ⁿ ‘Jussio, consilium, consensus, palpo, recursus, Participans, mutus, non obstans, non manifestans.’

^o Cod. Theodos. lib. xiv. tit. xviii. (Lugdun. 1665. vol. v. p. 256.) De Mendicantibus non Invalidis, leg. i. Cunctis adfatim, quos in publicum quæstum incepta mendicitas vocavit, inspectis, exploretur in singulis et integritas corporum et robor annorum: adque ea inertibus, et absque ulla debilitate miserandis, necessitas inferatur, ut eorum quidem, quos tenet conditio servilis, proditor studiosus et diligens dominium consequatur: eorum vero, quos natalium sola libertas prosequitur, colonatu perpetuo fulciatur, quisquis hujusmodi lenitundinem

being slaves or freedmen able to work, yet fled from their masters to Rome, to skulk in corners, and live as drones upon false charity: whom he orders to be examined, and if they were found able to work, they should either become the possession of the informer who discovered them; or be returned to their original masters, who had a good action in law against any who either harboured such fugitives, or by their counsels instigated them to desertion. Justinian inserted this law into his Code^p likewise, and set forth a new edict of his own to the same purpose. The Church also was very careful in this matter, not to suffer stout idle wandering beggars to devour the revenues of those that were really infirm and poor. Upon this account she forbade any of her clergy to rove about the world, or wander from one diocese to another without letters dimissory, as some did under the scandalous name of βακάντιβοι, 'Men out of business;' as I have had occasion to show¹ more fully in another place. She obliged all her monks and men of the ascetic life to live upon their own labour. Inasmuch that a monk, who did not work, was looked upon as 'a thief and a defrauder;' as Socrates^q tells us the Egyptian fathers were used to express themselves concerning such as eat other men's bread for nought. St. Austin^r wrote a whole book to prove this to be the proper duty of a monk, to live upon his own labour, where he answers all objections that can be made to the contrary. And there are innumerable passages in other ancient writers upon the same topic, to which I have referred the reader in discoursing upon the rules of the monastic life² in a former book. Here I shall only add one noted passage of St. Ambrose, where he gives rules and directions for dispensing charity with prudence only to such as really want it.

prodiderit ac probaverit: salva dominis actione in eos, qui vel latebram forte fugitivis, vel mendicitatis subeundæ consilium præstiterunt.

^p Cod. Justin. lib. xi. tit. xxv. de mendicantibus validis, leg. i. (Amstel. 1663. p. 337.)

¹ Lib. vi. c. iv. § v. vol. ii. p. 182.

^q Socrat. lib. iv. c. xxiii. (Vales. Amstel. 1700. p. 192. A 5.) "Ἄλλος δὲ τις ἔλεγεν, ὅτι ὁ μοναχὸς, εἰ μὴ ἐργάζοιτο, ἐπίσης τῷ πλεονέκτῃ κρίνεται.

^r Augustin. de Opere Monachorum, c. xvii. etc. (Bened. 1700. vol. vi. p. 358.)

² Lib. vii. c. iii. § x. vol. ii. p. 271.

“There ought to be (says he,)* a due measure observed in liberality, that our charity be not useless : and this moderation is chiefly to be regarded by bishops and priests, that they do not dispense [the Church’s treasure] to importunate beggars, but as the justice and necessity of the case requires : for none are commonly more greedy in their petitions than such as those. Many come a begging, who are lusty and strong ; many come, who have no other reason but an idle vagrant humour ; who would evacuate the subsidies of the poor, or empty their chests, and consume what is laid up for their maintenance. Neither are they content with a little, but require great largesses ; they appear as gentlemen in their dress, and make that a means to promote their petition, and pretending to be men of good birth, they make use of that as an argument to gain a greater contribution. If any one is too easy in giving credit to such as these, he will quickly defeat those useful methods which are taken for the maintenance of the poor. Therefore a moderation is to be observed in giving ; that neither such may be sent away empty, if really in want ; nor the livelihood of the poor be turned into another channel, to become a spoil and prey to the frauds of the crafty.” It is plain from such accounts as these, that they looked upon an idle life as no better than living upon the spoils of the poor, and a robbery of the worst sort ; because it often joined fraud and cruelty to the theft, making use of false pretences to divert the current of men’s charity from the widow and the fatherless, and turn it to themselves ; who had no necessity but what they voluntarily made to themselves, either by their idleness or luxurious and

* Ambros. de Officiis, lib. ii. c. xvi. (tom. iv. Opp. p. 52, edit. Paris. 1642.) (Paris. 1836. vol. iii. p. 190.) *Liquet debere esse liberalitatis modum, ne fiat inutilis largitas. Sobrietas tenenda est, maxime sacerdotibus, ut non pro jactantia, sed pro justitia dispensent. Nusquam enim major aviditas petitionis. Veniunt validi, veniunt nullam causam nisi vagandi habentes, et volunt subsidia evacuare pauperum, exinanire sumtum : nec exiguo contenti, majora quæerunt, ambitu vestium captantes petitionis suffragium, et natalium simulatione licitantes incrementa quæstum. His si quis facile deferat fidem, cito exhaurit pauperum alimoniis profutura compendia. Modus adsit largiendi, ut nec illi inanes recedant, neque transcribatur vita pauperum in spolia fraudulentorum. Ea ergo mensura sit, ut neque humanitas deseratur, nec destituatur necessitas.*

prodigal way of living : the supporting of which was an arrant theft and robbing of the poor, which is the height and extremity of cruelty and oppression. And therefore as the laws of the state made idleness in vagrants an actionable crime, (*ἀργίας δίκη* the law itself terms it ;) so the rules of the Church brand it as an infamous way of living, and worthy of ecclesiastical censure.

SECT. XX.—*And Gaming, as an occasion of Fraud, and ruin of many poor families, who by this means were reduced to the greatest exigence.*

To this they added gaming, as another way of cheating and defrauding ; and that in a double respect, because men thereby were inclined to cozenage and deceit, and often ruined their families, who by this means were reduced to the greatest poverty and want by the dissoluteness and folly of a wicked parent. There might be many other reasons for declaiming against this vice, as that it is a reproachful way of dissolute living, and spending men's time in luxury, condemned by many wise and sober heathens ; that the old Roman laws punished gamesters with banishment, and many other severe penalties ; that gaming inclines men to many great and horrible vices, as covetousness, perjury, lying, cursing and swearing, anger and passion, quarrelling and murder, and rioting and intemperance of all sorts : but I consider it here only as attended with the evil effects of fraud and consumption of men's estates, which involves many poor families in ruin, in which notion it is a downright theft and robbery. And as such it was anciently prohibited by the rules of the Church, not only to the clergy, but the laity also. “ If any bishop, presbyter, or deacon,” says one of the apostolical canons,^u “ spend his time at dice or in drinking, let him either refrain, or be deposed.” And the next canon adds, “ If any subdeacon, reader, or singer do the like, let him be excommunicated, and

^t Vide Taylor. Duct. Dubit. lib. iv. c. i. (vol. xiv. p. 278. Lond. 1822.)

^u Can. Apost. xlii. (al. xxxv.) (Labbé, vol. i. p. 36.) Ἐπίσκοπος, ἢ πρεσβύτερος, ἢ διάκονος, κύβοις σχολάζων καὶ μέθαις, ἢ πανσάσθῳ, ἢ καθαιρεῖσθῳ.—Can. xlii. Ὑποδιάκονος, ἢ ψάλτης, ἢ ἀναγνώστης, τὰ ὅμοια ποιῶν, ἢ πανσάσθῳ, ἢ ἀφοριζέσθῳ ὡσαύτως καὶ οἱ λαϊκοί.

laymen also.” And so the Council of Eliberis separates all gamblers in general from the communion. “If any Christian^x play at dice or tables, let him be restrained from communicating: but if he leaves off and amends, after a year’s penance he may be reconciled.” Albaspinæus thinks the reason of the prohibition was,^y because the dice had the images of the heathen gods, as Venus, &c., imprinted on them instead of numbers, and that men in their play called upon them for good fortune: but if so, I conceive, a greater penalty would have been imposed upon them, as upon idolaters, by this council. Therefore it is more reasonable to suppose that the council considered gaming as a mispending of men’s useful time, and consumer of their fortunes, and destruction of their families, and an inlet to fraud and covetousness, and all the forementioned vices; and under that notion condemned such as made a trade and business of it, and not a diversion. Upon this account St. Ambrose pronounces^z the gain that is got by dice and gaming to be no better than theft, or unmerciful and griping usury; and that the man who gives himself to it, leads the life of a savage wild beast. And Justinian made a law,^a that no one should be obliged to pay what he lost at dice; or if he had paid it, he or his heirs might recover it at law of the winner or his heirs, for thirty years after and longer. Or if he did not reclaim it, any one else might do it; or the chief magistrate of the city, the Defensor, might exact it, and lay it out upon some public work or building for the

^x Concil. Illiberit. c. lxxix. (Labbé, vol. i. p. 979.) Si quis fidelis alea, id est, tabula luserit nummos, placuit eum abstineri: et si emendatus cessaverit, post annum poterit reconciliari communioni(-e).

^y Albaspin. in loc. (p. 1007.) De talis, ni fallor, canon accipiendus, quibus ludere nefas videbatur, quod speciem quamdam idololatriæ committeret, qui eos jactaret: Deorum enim gentilium effigies pro numeris habebant, iique invocantur, ut felicissimus eveniret jactus. Suetonius in Augusto: ‘quos tollebat universos, qui Venerem jecerat.’

^z Ambros. de Tobia, c. xi. tot.

^a Cod. Justin. lib. iii. tit. xliii. de Aleatoribus, leg. i. (Amstel. 1663. p. 106.) “Οτι ὁ ἡττηθεὶς εἰς κόπτον, οὐκ ἀπαιτεῖται· καὶ καταβαλὼν, ἀναλαμβάνει μετὰ διαδόχων ἀπὸ τοῦ νικήσαντος καὶ τῶν κληρονόμων αὐτοῦ διηνεκῶς, καὶ περὶ τριακονταετίας. Εἰ δὲ μὴ θέλουσιν ἀναλαβεῖν ὁ θέλων, καὶ μάλιστα ὁ τῆς πόλεως, ἐν ᾗ τοῦτο γέγονε, πατήρ, ἢ ἐκδικος ἀπαιτεῖ, καὶ δαπανᾷ εἰς ἔργα τῆς πόλεως.

use of the city. And in such games as were ^b permitted, he allowed the richest to play for no more than one shilling, and others only in proportion to their substance. And this was a very wise law, considering the complaint which ^c St. Jerom makes, that whilst men play for vast sums, and stake their whole estates at once, “the poor stand naked and hungry before their doors; and Christ perishes and is starved to death in his poor members for want of their relief.” Nay many times their own flesh and blood, their families and relations, are ruined by their folly in one night. And what character or punishment could be thought too bad for such? He that provides not for his own, and especially those of his own house, has denied the faith, and is worse than an infidel. And for this reason both the civil and ecclesiastical laws were so severe against dice and gaming, because of such evil consequences so commonly attending them, when they are undertaken for undue ends, and pursued by false measures, only to serve men’s fraud and filthy lucre. Otherwise, to play *γεροντικῶς*, ‘as old men’ used to play, for diversion, and not for lucre, is what wise and good men have always innocently done ^d without any reproach or censure. And so I have done with the several sorts of theft and robbery, which are great transgressions of the eighth commandment; by which we may judge of the mistake of those who confine the discipline of the Church to the punishment of three capital crimes, idolatry, adultery, and murder; for it will be hard to bring theft under any of those denominations, unless we say all. Theft is covetousness, and covetousness is idolatry: but in that large sense of idolatry, which is serving our own affections more than God, not only covetousness, but adultery and murder will be idolatry also. And then all crimes might be resolved into one, and the Church had nothing to do but to punish one crime under different species of idolatry: which does by no means rightly explain her discipline, which

^b Ibid. Καὶ μὲν σφόδρα πλούσιοι νομίσματος ἐνδὸς ἐκάστην σύνθεισιν παίζουσι· οἱ δὲ λοιποὶ πάνυ ἥττονος.

^c Hieron. Epist. xii. ad Gaudentium. Auro parietes, auro laquearia, auro fulgent capita columnarum: et nudus atque esuriens ante fores nostras Christus in paupere moritur. (Venet. 1766. vol. i. p. 965. C.)

^d Taylor. Duct. Dubitant. referred to above, note (t) p. 317.

makes idolatry a distinct crime against a command in the first table of the Decalogue, as disobedience to parents, adultery, murder, and theft, are against the second table; and according to this order I have hitherto considered them in this discourse.

CHAPTER XIII.

OF GREAT CRIMES AGAINST THE NINTH COMMANDMENT,
FALSE ACCUSATION, LIBELLING, INFORMING, CALUMNY
AND SLANDER, RAILING AND REVILING, &c.

SECT. I.—*Of False Witness.*

THE intent of the ninth commandment is to secure our neighbour's credit from injury, by spreading false reports concerning him to the prejudice of his good name and reputation. This is sometimes done in a public manner, by bearing false witness against him: and then it is adding perjury to the calumny, and sometimes theft and murder also: for it may affect not only his credit, but his fortune, and his life too; as it did in the case of Naboth, who was stoned to death upon a false accusation, 'Naboth did blaspheme God and the King.' And so our Saviour, and many of his disciples after him, suffered by the malicious and false imputations of their enemies, the Jews and heathens. The greatness of the crime in these respects has been already showed under the several titles of perjury, theft, and murder: here I only consider it as an injury to men's reputation, which being a thing dear and valuable to all men, the laws were very careful to secure men in the quiet enjoyment of it, and punish all base attempts to ruin and destroy it. Aulus Gellius^a tells us, the punishment of false-

^a Gell. Noct. Attic. lib. xx. c. i. (Lug. Bat. 1666. p. 1107.) An putas, Favorine, si non illa etiam ex duodecim tabulis de testimoniis falsis pœna abolevisset; et si nunc quoque, ut antea, qui falsum testimonium dixisse convictus esset, e saxo Tarpeio deiceretur, mentituros fuisse pro testimonio tam multos quam videmus!

witness among the old Romans, by the law of the twelve tables, was to cast the criminal headlong from the top of the Tarpeian Rock : and he thinks, if this punishment had continued, it might have been of great service to the Roman commonwealth, in deterring men from the commission of this crime by its just severity. Afterward by a law, called the ‘*Lex Remmia*,’^b false witnesses were burnt in the face, and stigmatized with the letter K, denoting them to be calumniators or false accusers. In opposition to whom the law^c calls honest men, ‘*Homines integræ frontis*,’ men without any such mark set upon them. This law and punishment is often mentioned by the Roman writers, Tully,^d Pliny,^e and others.^f And though the Christian law abolished it, as it did that of the cross and some others, yet still false accusation and calumny were corrected with suitable punishments, such as infamy, banishment, and suffering the same evil, by the law of retaliation, which the false accuser

^b Digest. lib. xlviii. tit. xvi. ad senatusconsultum Turpillianum, leg. i. § ii. Calumniatoribus pœna lege Remmia irrogatur. (p. 736.)

^c Digest. lib. xxii. tit. v. de Testibus, leg. xiii. Testimonii fides, quod integræ frontis homo dixerit, etc. (p. 326.)

^d Cic. Orat. ii. pro Roscio Amerino, n. 55. Nemo nostrum est, Eruci, qui sciat, tibi inimicitias cum Sex. Roscio nullas esse : vident omnes, qua de causa huic inimicus venias : sciunt hujusce pecunia te adductum esse. Quid ergo est ? ita tamen questus te cupidum esse oportebat, ut horum existimationem et legem Remmiam putares aliquid valere oportere. Num. 57. Sin autem sic agetis, ut arguatis aliquem patrem occidisse, neque dicere possitis, aut quare, aut quomodo, ac tantummodo sine suspitione latrabitis : crura quidem vobis nemo suffringet ; sed si ego hos bene novi, litteram illam, cui vos usque eo inimici estis, ut etiam [eas] omnes oderitis, ita vehementer ad caput adfigent, ut postea neminem alium, nisi fortunas vestras, accusare possitis. (Beck, i. p. 58.)

^e Plin. Panegyric. (Gierig. Lips. 1796. p. 104.) Neque, ut antea, exsanguem illam et ferream frontem nequidquam convulnerandam præbeant punctis, et notas suas rideant ; sed spectent paria præmia damna, nec majores spes, quam metus habeant ; timeantque, quantum timebantur.

^f Vide Demster. addit. ad Rosin. lib. ix. c. xvi. p. 1517. (lib. viii. c. xxii. p. 1381, edit. Colon. 1662.) Lex de Calumniatoribus.] Item illa de calumniatoribus : ut calumniatoribus pœna constituto judicio imperetur : cujus meminit Cicero pro Sext. Roscio, Papinianus, lib. xiii. de Testibus, lib. i. c. i. ad senatusconsultum Turpillianum. Hac autem lege calumniatori in fronte imprimebatur littera, qua indicabatur calumniatum eum esse. Sic enim Cicero pro Sext. Roscio : “ Litteram illam,” etc. Ceterum hanc legem, sicut et superiorem (Memmiam) quidam ‘*Remmiam*,’ appellant. Paulus Manutius autem Commentariis in orationem pro Sexto Roscio, superiorem illam de reo evocando Memmiam ; hanc ergo de calumniatoribus Remmiam dictam sibi videri scribit.

intended to draw upon others; as appears from several laws^s in the Imperial Codes, and particularly those which bind the accusing party to undergo the same punishment, which his false accusation tended to bring upon the supposed criminal, if he did not make good his charge against him. We have already¹ seen a law of Valentinian and Gratian, ordering, "That whoever impleaded another either in regard to his fame and reputation, or his fortune, or his life, should undergo the same penalty he intended to bring upon the party so impeached, if he proved a calumniator, and did not fairly make out his action." And every accuser was tied in bonds, which the law^h calls 'Vinculum Inscriptionis,' to suffer a retaliation, or

^s Cod. Theod. lib. ix. tit. xxxix. de Calumniatoribus, leg. i. (Lugdun. 1665. vol. iii. p. 284.) Non est ratio, qua manifesti calumniatoris supplicium differatur: nec enim patimur frequenter iterari, quæ consistere prima actione non quiverint, atque alienam innocentiam securitatemque sine crimine, damnabili adpetitione terreri. Leg. ii. Nostris et parentum nostrorum constitutionibus comprehensum est, 'eos qui accusationem alienis nominibus præsumsissent, delatorum numero esse ducendos.' Atque ideo calumniosissimum caput et personam judicio irritæ delationis infamem deportatio sequatur: quo posthac singuli universique cognoscant, non licere in eo Principum animos commovere, quod non possit ostendi. Leg. iii. Innocentes, sub specie falsæ criminacionis, non patimur callidorum impugnatione subverti: quæ si tentaverint, intelligant sibi met severitatem legum pro commissis facinoribus incumbere.—Cod. Justin. lib. ix. tit. xlv. de Calumniatoribus, leg. vii. Non prius quemquam Sinceritas tua ad tuæ sedis examen jubebit adduci, quam solemnibus satisfecerit, qui nititur fidem doloris adserere: quum juxta formam juris antiqui, ei, qui cøperit arguere, aut vindicta proposita sit, si vera detulerit: aut supplicium, si fefellerit. Leg. viii. Nostris et parentum, &c. Leg. ix. Fallaciter incusantibus, maxime post exhibitionem accusati, nullius juris color veluti derivata excusatione proficiat: non publica [quidem] abolitio, non privata talibus proficiat subveniatque personis: non specialis indulgentia, nec beneficium quidem eos generale subducat. Leg. x. Quisquis crimen intendit, non impunitam fore noverit licentiam mentiendi: quum calumniantes ad vindictam poscat similitudo supplicii. (Amstel. 1663. p. 304.)

¹ Cap. xii. § xv. sub litt. (p) p. 298.

^h Cod. Theod. lib. ix. tit. i. de Accusationibus et Inscriptionibus, leg. ix. Non prius quemquam, &c. (Lugdun. 1665. vol. iii. p. 13.) vide Cod. Justin. lib. ix. tit. xlv. leg. vii. sub litt. anteced. (g). Leg. xi. Nullus secundum juris [antiqui] proscriptum crimen, quod intendere proposuerit, exsequatur, nisi subeat inscriptionis vinculum, etc. Leg. xiv. Qui vel inter necivi exerit actionem, vel crimen suspectæ mortis intendit, non prius ejuscumque caput accusatione pulset, quam vinculo legis adstrictus pari cøperit pœnæ conditione jurgare: ita ut etiam servos si quis crediderit accusandos, non prius ad miserorum tormenta veniatur, quam se accusator vinculo inscriptionis adstrinxerit, etc. Leg. xix.

similitude of punishment, upon failure of evincing his charge against another. Such care was taken by the secular laws to discourage delators or false informers, and preserve the fame and reputation of innocent men against the vile attempts of such dangerous aggressors. Nor were the ecclesiastical laws less severe in their way against such transgressors. The false witness in any case was to do penance five years for his crime by a canon of the Council¹ of Eliberis. And this, provided it was not in the case of death: for in that case, being the crime of murder, the criminal was to be debarred from communion to the very last; as has been showed before¹ in speaking of murder. The Councils of Agde^k and Vannes impose a general penance upon such offenders, without naming the term or duration of their penance, which was left to the discretion of the bishop, who was to judge of the sincerity of their repentance. But the first Council of Arles¹ obliges them to do penance all their lives: and the second^m only moderates their punishment so far as to leave it to the bishop to determine of their repentance and satisfaction.

Accusationis ordinem jam dudum legibus institutum servari jubemus: ut quicumque in discrimen capitis arcessitur, non statim reus, qui accusari potuit, aestimetur, ne subjectam innocentiam faciamus: sed quisquis ille est, qui crimen intendit, in judicium veniat; nomen rei indicet; vinculum inscriptionis accipiat; custodiæ similitudinem, habita tamen dignitatis æstimatione, patiatur: nec impunitam fore noverit licentiam mentiendi, quum calumniantes ad vindictam poscat similitudo supplicii. (Lugdun. 1665. vol. iii. p. 24.)

¹ Concil. Illiberrit. c. lxxiv. (Labbé, vol. i. p. 978.) Falsus testis, prout est crimen, abstinetur; si tamen non fuerit mortale, quod objecit, et probaverit; quod non tacuerit, biennii tempore abstinenceatur: si autem non probaverit conventui clericorum, placuit per quinquennium abstineri.

¹ Cap. x. § ix. et x. p. 215, seq.

^k Concil. Agath. c. xxxvii. (Labbé, vol. iv. p. 1389.) Censuimus homicidas et falsos testes a communione ecclesiastica submovendos, nisi poenitentiae satisfactione crimina admissa diluerint. See Conc. Veneticum can. i. in the same words: and Concil. Carthage. iv. c. 55.

¹ Concil. Arelat. I. c. xiv. (Labbé, vol. i. p. 1428.) De his qui falso accusant fratres suos, placuit eos usque ad exitum non communicare.

^m Concil. Arelat. II. c. xxiv. (Labbé, vol. iv. p. 1013.) Eos qui falso a fratribus suis capitalia [*capitula*] objecisse convicti fuerint, placuit, usque ad exitum non communicare (sicut magna synodus ante constituit) nisi digna satisfactione poenituerint.

SECT. II.—*Of Libelling.*

Another way of injuring men's credit and reputation was, by spreading false reports in a covert and clandestine manner, which the laws call libelling. This was done, when a man was accused by a bill of indictment, to which the author was afraid to set his name. And such accusations were of no force in law, but were appointed to be torn in pieces or burnt; and no man might read, or retain, or divulge them, without being reputed the infamous author of them. The Christian emperors were extremely careful in discouraging all such base attempts upon men's credit and reputation; as may be seen in the several laws of Constantine, Constantius, Valentinian and Valens, Theodosius and Arcadius, in the Theodosian Code, under the title, *de famosis Libellis*. It will be sufficient to repeat one of them made by Valentinian^a in this tenor: "The very name of scandalous libels is infamous. Therefore whoever collects or reads them, and does not immediately commit them to the flames, shall be liable to be condemned to a capital punishment." By which it is easy to judge how infamous the authors of such libels were, since none were allowed so much as to read and retain them with impunity, but were in danger of being proceeded against as the suspected authors of them. The ecclesiastical law made the authors and publishers of all such pasquils, when detected, liable to excommunication. For so the Council of Eliberis words it^o in one of her canons: "If any are found to have scattered or dispersed infamous libels in the Church, let them be anathematized."

SECT. III.—*Of Detraction, Whispering, and Backbiting.*

Another sort of secret defamation, was that which was committed by the detraction of the lurking whisperer and backbiter: against whose venomous tongues St. Austin is said

^a Cod. Theod. lib. ix. tit. xxxiv. de Famosis Libellis, leg. vii. (Lugdun. 1665. vol. iii. p. 243.) Famosorum infame est nomen libellorum. Ac si quis vel colligendos, vel legendos putaverit, ac non statim chartas igni consumserit, sciat se capitali sententia subjugandum.

^o Concil. Illiberrit. c. lii. (Labbé, vol. i. p. 976.) Hi qui inventi fuerint libellos famosos in ecclesia ponere, anathematizentur.

to have endeavoured to guard his own family and conversation, by causing these two verses to be written upon his table :

Quisquis amat dictis absentum rodere vitam,
Hanc mensam indignam noverit esse sibi.

‘He that takes delight in lessening the characters of the absent, is no welcome or worthy guest at this table.’ This he did to admonish every one that came there, to abstain from defamatory discourse and detraction. And Possidius^p says, “He was so strict and punctual in the observation of this rule, that he would sometimes sharply reprove his most familiar acquaintance and fellow-bishops for forgetting and transgressing it; telling them, that either those verses must be erased from his table, or he must withdraw and retire to his private apartment.” This was a sort of private discipline (like that of St. Austin’s mother denying him the privilege of sitting at her own table whilst he was a Manichee), and it was a very proper way of discouraging all evil-speaking and detraction: but I do not find that this crime was brought under public discipline by any general rule of the Church. And the reason might be, what St. Jerom observes, that the sin was too general and epidemical to be publicly corrected: “For there^q are very few that have wholly renounced this vice; and it is a rare thing to find any so careful to make their own life unblamable, not to be willing to find fault with others. Yea, so great a propensity is there in men’s minds toward this evil, that they who are far removed from other vices, fall into this as the last snare of the devil.”

SECT. IV.—*Of Railing and Reviling, or scurrilous and abusive Language: and of revealing Secrets.*

But when this detraction broke out into open slander and calumny, and especially when it was attended with contumelious, bitter, and reproachful words, with railing and reviling,

^p Possid. Vit. Aug. c. xxii.

^q Hieronym. Epist. xiv. ad Celantiam. (Venet. vol. i. p. 1104. D.) Pauci admodum sunt qui huic vitio renuntient, raroque invenies, qui ita vitam suam irreprehensibilem exhibere velint, ut non libenter reprehendant alienam. Tantique hujus mali libido mentes hominum invasit, ut etiam qui procul ab aliis vitiis recesserunt, in istud tamen quasi in extremum diaboli laqueum incidant.

and scurrilous and abusive language ; then, as it was matter of public scandal, so it became the subject of a public censure. For St. Paul puts railers and revilers into the number of those who are neither fit for the society of men nor the kingdom of God. 1 Cor. v. 11. " I have written unto you, not to keep company, if any man that is called a brother, be a fornicator, or covetous, or an idolater, or a railer, or a drunkard, or an extortioner, with such an one no not to eat." And again, 1 Cor. vi. 9, 10. " Be not deceived : neither fornicators, nor idolaters, nor adulterers, nor effeminate, nor abusers of themselves with mankind, nor thieves, nor covetous, nor drunkards, nor revilers, nor extortioners, shall inherit the kingdom of God." And therefore the Church, following this rule, reckoned slanderous railing and scurrility among the crimes that deserved ecclesiastical censure. In so much that a clergyman, who was noted for scurrilous and scoffing language, is ordered by the Council of Agde^r to be degraded. And the same canon occurs in the fourth Council of Carthage,^s with some others of the like nature : as if he be given to railing,^t or revealing of secrets to the infamy and disgrace of others. Upon this latter case, of defaming men by divulging unnecessarily their secret crimes, St. Austin^u has a whole discourse, where he particularly says, that he that rebukes a man publicly before all, when his crime is known to none but himself alone, is not a reprover, but a betrayer. He reminds such of the example of Joseph, who finding the holy Virgin to be with child, and suspecting her to

^r Concil. Agath. c. lxx. (Labbé, vol. iv. p. 1394.) *Clericum scurrilem et verbis turpibus joculatorem ab officio retrahendum.*

^s Concil. Carth. IV. c. lx. (Labbé, vol. ii. p. 1204.)

^t Ibid. c. lvii. p. 1204. *Clericus maledicus, maxime in sacerdotibus, cogatur ad postulandam veniam. Si noluerit, degradetur. Ivi. Clericus, qui adulationibus et proditiionibus vacare deprehenditur, ab officio degradetur.*

^u Aug. Serm. xvi. de Verbis Domini, tom. x. p. 29. (Bened. 1700. vol. v. p. 310. D 2.) (p. 71, edit. Basil. 1569.) *Si solus nosti, quia peccavit in te, et eum vis coram omnibus arguere; non es correptor sed proditor. Attende, quemadmodum vir justus Joseph, tanto flagitio quod de uxore fuerat suspicatus, tanta benignitate pepercit, antequam sciret unde illa conceperat : quia gravidam senserat, et se ad illam non accessisse noverat. Restabat itaque certa adulterii suspicio : et tamen, quia ipse solus senserat, ipse solus sciebat, quid de illo ait evangelium ? 'Joseph autem quum esset vir justus, et nollet eam divulgare.' Mariti dolor non vindictam quaesivit. Voluit prodesse peccanti, non punire peccantem.*

be guilty of fornication, yet being a just and good man, he was minded to put her away privily, and not make her a public example. And he adds, that bishops^v were wont thus^x to proceed with private criminals in the Church: “a bishop knows a man to be guilty of murder, and the thing is known to none besides himself. If in this case I should reprove him publicly, some other would take the law upon him. Therefore I neither betray him, nor neglect him: I reprove him in secret; I set before his eyes the judgment of God; I terrify his guilty conscience; I persuade him to repentance.” So again, says he, “There are some men that are adulterers in their own houses; they sin sometimes in private, and they are discovered to us by their own wives, sometimes in zeal and fury, sometimes in mercy, desiring the salvation of their souls. Now in this case we do not betray them openly, but rebuke them in secret. Where the evil is committed, there it dies: yet we do not neglect that wound; but before all things show the man that has committed such a sin, and wounded his conscience thereby, that his wound is mortal.” By this discourse of St. Austin, it seems clear, that the Church brought no private crimes under public penance, except when the guilty person consented to it and required it: and to do otherwise was an high crime in the minister, who was charged, for any such attempt, as a divulger of secrets, and betrayer of his trust, and one that brought an unnecessary defamation and scandal upon his brethren.

^v Augustin. *ibid.* p. 28.

^x Augustin. *ibid.* p. 310. F 8. Novit nescio quem homicidam episcopus, et alius illum nemo novit. Ego volo publice corripere, at tu queris inscribere. Prorsus nec prodo, nec negligo: corripio in secreto: pono ante oculos Dei iudicium; terreo cruentam conscientiam; persuadeo pœnitentiam... Sunt homines adulteri in domibus suis, in secreto peccant; aliquando produntur nobis ab uxoribus suis plerumque zelantibus, aliquando maritorum salutem querentibus: nos non prodimus palam, sed in secreto arguimus. Ubi contigit malum, ibi moriatur malum. Non tamen vulnus illud negligimus: ante omnia ostendentes homini, in tali peccato constituto sauciamque gerenti conscientiam, illud vulnus esse mortiferum.

SECT. V.—*Of Lying. How far it brought men under the Discipline of the Church.*

Thus far the discipline of the Church proceeded against all defamatory and pernicious lying. But there are some other sorts of lies, as the ludicrous lie, and the officious lie, which though culpable and sinful in themselves, were not so severely pursued by ecclesiastical censures. Tertullian^y reckoning up those lesser sins which were not publicly punished by penance in the Church, puts lying out of modesty, or necessity, among them. And Origen^z makes lying one of those sins, which were incident to those who had made the greatest proficiency in the Church. Some indeed pleaded for officious lies, as not only innocent and lawful, but in some cases useful and necessary: as if it were to save the life of an innocent person, a man ought in that case, rather to tell a lie, than to betray him to death. But St. Austin disputes against this sort of officious lies also, and shows them to be culpable and sinful; arguing, that a man ought neither to betray an innocent person, nor tell a lie to save him, but to venture his own life, by professing roundly, that he will neither lie for him, nor discover him. And he gives a rare instance of this sort of fortitude in one Firmus bishop of Tagasta, who according to what the Greeks call Pheronymy, *φερωνυμία*, carried firmness in his name,^a and firmness in his resolution. For when one of the heathen emperors had sent his apparitors to search for a

^y Tertul. de Pudicit. (c. xix. Paris. 1664. p. 582. B 3.) Sunt quædam delicta quotidianæ incursionis, quibus omnes sinus objecti. Cui enim non accidit, aut irasci inique, et ultra solis occasum; aut et manum immittere, aut facile maledicere, aut temere jurare, aut fidem pacti destruere; aut verecundia, aut necessitate mentiri.

^z Orig. tract. vi. in Matth. p. 60. (p. 38. m. edit. Paris. 1604.) See c. iii. § xiv. vol. v. p. 563.

^a Aug. de Mendacio ad Consentium, c. xiii. (Bened. 1700. vol. vi. p. 317. F 6.) Firmus nomine, firmior voluntate. Nam cum ab eo quæreretur homo jussu Imperatoris per apparitores ab eo missos, quem ad se fugientem diligentia, quanta poterat, occultabat; respondit quærentibus nec mentiri se posse, nec hominem prodere, passusque tam multa tormenta corporis (nondum enim erant Imperatores Christiani) permansit in sententia. Deinde ad Imperatorem ductus usque adeo mirabilis apparuit, ut ipsi homini quem servabat, indulgentiam sine ulla difficultate impetraret.

certain person whom he had hidden, he told them plainly, he could neither tell a lie, nor betray the man; and though they put him to the rack, and tortured him to make him confess, yet he persisted in his resolution not to discover the man that was fled to him for safety and protection. Whereupon he was carried before the emperor himself, where he gave such admirable and fresh proofs of his firmness, that the emperor without any great difficulty was prevailed upon to pardon the man, whom he kept in private under his protection. This was a singular instance of heroic gallantry, rather to run the hazard of his own life, than tell a lie to save another from destruction. But the discipline of the Church did not run thus high, to oblige all men to come up to this degree of veracity under pain of excommunication. It was sufficient to encourage truth and ingenuity in all cases, and punish falseness and perfidiousness in all notorious instances of mischievous evil: but in other cases, it was no blemish to the discipline of the Church to suffer some sort of more pardonable lying to pass without the animadversion of the highest censure, so long as they gave no encouragement to it, but condemned it universally as a lesser instance of transgression. To this purpose St. Austin says in another place,^b “there are two sorts of lies in which there is no great fault, and yet they are not wholly without fault; that is, when we lie in jest, and when we lie for the advantage of our neighbour.” In this latter case he thinks, a man may honestly conceal the truth by silence; but he must not, upon any account, speak false, or tell a lie: for that will not consist with the perfection of a Christian. Therefore if he would not betray a man to death, he must prepare himself to conceal the truth, but not to speak^c false; so as that he may neither betray the man, nor tell a lie; lest he destroy his own soul to preserve the life of another. As this shows the perfection of the Christian

^b August. in Psalm. v. p. 11. (p. 27, edit. Basil. 1569.) (Bened. 1700. vol. iv. p. 14. E 6.) Duo sunt omnino genera mendaciorum, in quibus non est magna culpa: sed tamen non sunt sine culpa, quum aut jocamur, aut, ut proximis propius, mentimur.

^c August. *ibid.* p. 14. D 9. Aliud est mentiri, aliud est verum occultare: si quidem aliud est falsum dicere, aliud verum tacere: si quis forte vel ad istam visibilem mortem non vult hominem prodere, paratus esse debet verum occultare, non

morals, so it equally declares the abatement that was made in the discipline of the Church, in reference to such officious lies as were extorted from men upon some extraordinary charity; which though it did not wholly excuse the sin, yet it made it so far tolerable, as not to incur the severity of public discipline, but come within the number of those lesser sins, which did not ordinarily fall under the greater censures of the Church.

In all other cases, where lying was attended with mischievous and pernicious effects, it was punished according to the proportion of those crimes that accompanied it: as we have already seen in the case of false witness, libelling, slandering, railing, and reviling. And when it implied any fraud, or equivocation, or double dealing in matters of religion, it was punished as apostasy or perjury, as we have seen in the case of the Libellatici,¹ who either denied their religion in writing, or purchased libels of security from the magistrate, to excuse them from sacrificing; and those who feigned themselves mad to avoid a prosecution: both which sorts of men the Church condemned as idolaters, and as guilty by their dissimulation and cowardice of betraying their holy religion. The Priscillianists were likewise infamous for this character and abominable practice of equivocation. For they taught their disciples this base art of dissembling, and concealing their vile practices^d by lies and perjury; giving them this direction, as one of their rules and instructions in cases of danger: swear and forswear, and never discover your secrets. How much more laudable and commendable is the rule given in this case even by the heathen Satirist,^e which deserves to be written in letters of gold! “If ever you are called to be a witness in

falsum dicere; ut neque prodat, neque mentiatur, ne occidat animam suam pro corpore alterius. Vide Concil. Tolet. VIII. c. ii. (tom. vi. Concil. p. 403. d.)

¹ Book xvi. cap. iv. § vi. et vii. p. 11.

^d Aug. de Hæres. lxx. (Bened. 1700. vol. viii. p. 17. B 8.) *Propter occultandas autem contaminationes et turpitudines suas habent in suis dogmatibus et hæc verba, ‘Jura, perjura, secretum prodere noli.’*

^e Juvenal. Satir. viii. v. 80. seqq.

. . . Ambiguæ si quando citabere testis
Incertæque rei, Phalaris licet imperet, ut sis

a doubtful matter, though Phalaris himself should command you to speak false, and threaten to burn you in his brazen bull, unless you will forswear yourself; in that case reckon it the greatest villany to prefer life before truth and honesty, and for the sake of living to forego those things which are the only true reasons of living;" that is, probity, integrity, and a good conscience, for which end men are born and sent into the world by the providence of God. This rule is often inculcated by the heathen moralists, Marcus Antoninus, Epictetus, Seneca, and Plutarch: which made it the more reasonable for the Christians to insist upon it, and punish the crimes of perjury and falseness with the severest of ecclesiastical censures, whenever they could plainly convict any one of being guilty of them: and when they could not, the providence of God commonly interposed, and discovered and punished them by some remarkable Divine judgment. Of which, beside the case of Ananias and Sapphira in Scripture, we have a memorable instance in Eusebius^f of three men who combined together in false accusation of Narcissus, bishop of Jerusalem, imprecating upon themselves very direful judgments, which the providence of God justly brought upon them; of which, because I have given a full relation¹ before, I need say no more in this place.

Falsus, et admoto dictet perjuria tauro;
Summum crede nefas, animam præferre pudori,
Et propter vitam vivendi perdere causas.

^f Euseb. lib. vi. c. ix.

¹ Ch. vii. p. 181.

CHAPTER XIV.

OF GREAT TRANSGRESSIONS AGAINST THE TENTH COMMANDMENT, ENVY, COVETOUSNESS, &c.

SECT. I.—*Whether Envy brought men under the discipline of the Church.*

THERE is but little to be observed in the ancient discipline of the Church concerning the transgressions against this commandment: because though some of them were great crimes, yet they were such as chiefly consisted in the internal corruptions of the mind; and the Church could take no notice of them, till they first discovered themselves in some outward actions. Envy was a crime of that nature: it was always reckoned a diabolical sin, and one of the first magnitude: but yet before it could bring a man under public discipline, the inward rancour of the heart must betray itself in some outward, apparent, and visible action. In this sense, we are to understand St. Chrysostom,^a when he says, “The envious man ought to be cast out of the Church as well as the fornicator, to preserve others from the contagion and poison of his example:” that is, when envy shows itself in any of those mischievous effects, which naturally arise from it, and turn to the apparent detriment of men or religion. For as Cyprian observes,^b “Envy is a very prolific vice, multiplying itself into

^a Chrysost. Homil. xli. in Matth. p. 383. D 9. (p. 466, edit. Francof.) “Ὅσπερ τῷ πεπορνευκότι οὐ θέμις εἰσελθεῖν εἰς τὴν ἐκκλησίαν, οὕτως οὐδὲ τῷ βασκαίνοντι· καὶ πολλῶ μᾶλλον τοῦτ' ἢ ἐκείνῳ.

^b Cyprian. de Zelo et Livore, (Oxon. 1682. p. 223.) (p. 154, edit. Amstelod. 1705.) Late patet zeli [sive livoris] multiplex et fœcunda pernicies. Radix est malorum omnium, fons cladum, seminarium delictorum, materia culparum. Inde odium surgit, animositas inde procedit. Avaritiam zelus inflammat; dum quis suo non potest esse contentus, videns alterum ditio- rem. Ambitionem

various shapes and figures: it is the root of all evils, the fountain of destruction, the seminary of sins, and the matter of all offences. Hence proceeds hatred, hence animosity arises. Envy inflames covetousness, making a man not to be content with his own, whilst he sees another richer than himself. Envy excites ambition, whilst a man sees another in greater honour than himself: envy blinds our senses, and reduces the interior faculties of the soul under its power and dominion. Then the fear of God is slighted, the precepts of Christ are neglected, the day of judgment is not thought of. It puffs us up with pride; it embitters us with cruelty; makes us prevaricate with perfidiousness; shocks us with impatience; enrages us with discord; inflames us with anger; and a man cannot contain or govern himself, who is now under the power of another. By this means the bond of divine peace is broken; brotherly charity is violated; truth adulterated; unity divided; and heresies and schisms take their original; whilst men disparage the priests, and envy the bishops, and every one complains that he himself was not ordained, or takes it in dudgeon that another was preferred before him." When envy was attended with any such effects as these, then it fell under the cognizance of public discipline; not as it was an inward corruption of the mind, but as it discovered itself in some outward and vicious action, as open dissension, or heresy or schism, or the breach of unity and peace, ecclesiastical or civil: which crimes being the subject of Church-censure, so far as envy was concerned in any of them, so far it might be said to be punished by the public discipline of the Church, but no otherwise, for want of sufficient ground to proceed in a legal way of evidence against it. But yet this

zelus excitat, dum cernit quis alium in honoribus auctiorem: zelo excæcante sensus nostros, atque in ditionem suam mentis arcana redigente, Dei timor spernitur, magisterium Christi negligitur, iudicii dies non providetur. Inflat superbia, exacerbat sævitia, perfidia prævaricatur, impatentia concutit, furit discordia, ira fervescit; nec se jam potest cohibere vel regere, qui factus est potestatis alienæ. Hinc Dominicæ pacis vinculum rumpitur, hinc caritas fraterna violatur, hinc adulteratur veritas, unitas scinditur, ad hæreses atque ad schismata prosilitur; dum obtrectatur sacerdotibus, dum episcopis invidetur, quum quis aut queritur non se potius ordinatum, aut dedignatur alterum ferre præpositum.

bitter root gave too many occasions to the Church to punish it in other species; being one of those sins that could not contain itself or long lie hid, having a train of other vices commonly attending it, according to the observation made by Cyprian, and long before by St. James; ‘For where envying and strife is, there is confusion and every evil work.’

SECT. II.—*Of Pride, Ambition, and Vain-glory.*

The like is to be observed of pride, ambition, and vain-glory. These were great sins in their own nature: but being internal and spiritual sins in their kind, the discipline of the Church could take no notice of them, till they discovered themselves in some enormous, outward vicious actions. As when pride drew men into blasphemy against God, or oppression of men; when ambition or vain-glory made men factious and turbulent in the Church, and pushed them forward into open heresy or schism; then was the proper time for the Church to take her spiritual sword into her hand, and make use of her censures for their correction. Thus we have seen the pride of Andronicus corrected by Synesius bishop of Ptolemais,^c when it brake forth into open blasphemy against Christ. And thus all along heretics and schismatics found their punishment, when their ambition and restless spirit proceeded so far, as to make some open breach upon the faith or unity of the Church. But in these cases, pride was rather punished in other species of sin, blasphemy, heresy or schism; for the censure of which the reader must look back into the former parts of this book.

SECT. III.—*Of Covetousness.*

The same observation is to be carried further, and made upon covetousness, which is another of those three great lusts that reign in the world, the lust of the heart, the lust of the eye, and the pride of life. Covetousness, which is the lust of the eye, is always a very great sin before God; being, as the apostle terms it, “Idolatry, and the root of all evil;” and even when it is only conceived in the mind, it makes a man odious to his Maker. But because God sees not, as man sees: for

^c Synes. Epist. lviii. See vol. v. p. 458. and 461.

God looks upon the heart : therefore before covetousness can render a man a proper object of the Church's discipline, it must discover itself in some visible act of injustice, as theft, oppression, or fraud ; under which appearances, but not otherwise, it was liable to the Church's judgment and censure. And this is what Gregory Nyssen^d observes, " That among all the species of covetousness none were expiated by solemn penance, but such as theft and violation of graves ;" that is, such instances of covetousness as manifested themselves in some outward and apparent evil action.

SECT. IV.—*Of carnal Lusts.*

And the like is to be said of the lust of the heart, or carnal lusts, and sins of uncleanness. Though the evil thoughts and intentions of the heart are sinful before God in general ; ' For if I regard iniquity in my heart, the Lord will not hear me ;' and though, in particular, ' He that looks on a woman to lust after her, hath committed adultery with her already in his heart ;' yet this was not punishable in the discipline of the Church : because the Church is no judge of the secret intentions, but only of the outward and visible actions, that carry scandal as well as sin in them. Therefore we have observed before¹ out of the Council of Neocæsarea,^e that no one was to be excommunicated for sins only in design and intention. " If a man purpose in his heart to commit fornication with a woman, but his lust proceed not into action, it is apparent he is delivered by grace," says the canon. And therefore though he was culpable before God, yet the Church inflicted not the censure of excommunication on him, because her discipline extended not to men's private thoughts, but only to their outward actions. And this was the case of all transgressions that were purely against this command : they might be pun-

^d Nyssen. Epist. ad Letoium. Μόνην τὴν κλοπὴν, καὶ τὴν τυμβωρυχίαν, καὶ τὴν ἱεροσυλίαν, πάθη νομίζομεν διὰ τὸ οὕτως ἐκ τῆς τῶν πατέρων ἀκολουθίας τὴν παράδοσιν ἡμῖν περὶ τούτου γενέσθαι. (Paris. 1615. vol. i. p. 953. D.)

¹ Vol. v. p. 573.

^e Conc. Neocæsar. c. iv.. (Labbé, vol. i. p. 1481.) 'Εὰν πρόβηται τις ἐπιθυμῆσαι γυναικὸς, συγκαθευδῆσαι μετ' αὐτῆς, μὴ ἐλθῇ δὲ εἰς ἔργον αὐτοῦ ἢ ἐνθύμῳ, φαίνεται ὅτι ὑπὸ τῆς χάριτος ἐρρύσθη.

ished under other species of sin, but not as they were only sins of the heart ; because, as such, human judicature could take no cognizance of them.

We have now gone through the several branches of duty and transgression, and therein taken a full view of the extent of the discipline of the Church : whereby it appears that the objects of ecclesiastical discipline were not only the three great sins of idolatry, adultery, and murder, but all other crimes that come under the denomination of scandalous and great transgressions. And thus far the discipline of the Church related to all persons in general : but there were some punishments peculiar to delinquent clergymen, which because they are matter of particular enquiry, I shall make them the subject of the following book.

BOOK XVII.

OF THE EXERCISE OF DISCIPLINE AMONG THE CLERGY IN THE ANCIENT CHURCH.

CHAPTER I.

OF THE DIFFERENCE BETWEEN ECCLESIASTICAL CENSURES INFLICTED ON CLERGYMEN AND LAYMEN.

SECT. I.—*The peculiar notion of Communio Ecclesiastica, and Excommunicatio Ecclesiastica, as applied to the Clergy.*

WE have hitherto taken a general view of the discipline of the Church, as it respected all the members of the community falling into the several crimes deserving excommunication. But to have a complete notion and full comprehension of the Church's discipline, we are to consider, there were some punishments peculiar to the clergy; and some censures so particularly respecting their office and function, that they could only be inflicted on them, and not upon laymen. In regard to which, clerical communion and lay-communion were always considered as distinct things; and a man might be deprived of the former, whilst he was allowed to enjoy the benefit and privilege of the latter; and even that which was many times a very great punishment in a clergyman or ecclesiastical person, was no punishment at all in a secular person or layman. For there was no suspension from office or benefit, no degradation or deposition, no reduction to lay-communion, that could affect a layman, as they were punishments: but all these were great punishments as inflicted on the clergy, because they deprived them of those special honours and advantageous privileges, that were peculiar

to their function. In reference to which things we sometimes find the terms 'communio ecclesiastica,' and 'excommunicatio ecclesiastica,' ecclesiastical communion, and ecclesiastical excommunication, used in a peculiar and restrained sense, not for communion or excommunication in general, but for admission to, or expulsion from, these particular honours and advantages, which were peculiarly appropriated to ecclesiastical persons, or such as were of the clerical order and function. Therefore though some canons take 'suspension from ecclesiastical communion'^a for suspension of laymen from the communion of the eucharist or the prayers of the Church; yet other canons, speaking of the clergy and their punishment, take ecclesiastical communion in a more restrained sense, for communicating in the offices of the clerical function. So that a clergyman was said to be excommunicated, when he was deprived of the power of exercising the offices of his function; and such an excommunication does not always imply that he was wholly cast out of all communion with the Church, but only communion as specified with this limitation and restriction. This distinction is noted by Balsamon,^b and Zonaras,^c and many other learned men^d after them: and it is necessary to be observed, for the

^a Concil. Agath. c. xxxvii. (Labbé, vol. iv. p. 1389.) Ita que censuimus homicidas et falsos testes a communione ecclesiastica submovendos, nisi poenitentiae satisfactione crimina admissa diluerint.—Conc. Aurelian. IV. c. xix. (Labbé, vol. v. p. 384.) Quicumque pro devotione sua oblationis studio aliquid in campellis vel in vineolis, etiam absque scriptura, probatur ecclesiae contulisse; si postmodum vel ipse, vel haeredes ejus, quacumque occasione auferre a jure hoc ecclesiae vel alienare voluerint, quoad usque a tali intentione discedant, aut per-versa restituant, a communione ecclesiastica suspendantur. See also Conc. V. c. xvii.

^b Balsam. in can. xvi. Concil. Nicæen. Δέδοκται... τοὺς μετακαλουμένους κληρικούς παρὰ τῶν χειροτονησάντων αὐτοὺς, καὶ μὴ πειθομένους ἀναστρέφειν, ἀκοινωνήτους εἶναι, ἤγουν, μὴ παραχωρεῖσθαι συνιερουργεῖν τοῦτοις· εἰς τοῦτο γὰρ τὸ μὴ κοινωνεῖν ἐκλαμβάνεται, οὐ μὴν εἰς τὸ μὴ ἐκκλησιάζειν, ἥ εἰς τὸ μὴ μεταλαμβάνειν τῶν ἁγιασμάτων, κ. τ. λ.

^c Zonar. in eundem. Οἶμαι τοίνυν ἐπὶ τοῦ παρόντος κανόνος τὸ ἀκοινωνήτους εἶναι, οὕτως νοεῖσθαι, ἤγουν, μὴ συγκοινωνεῖν αὐτοῖς τοὺς ἱερατικούς δηλαδὴ· ἀλλὰ ἀποτρέπεσθαι τὸ συνιερουργεῖν αὐτοῖς τοὺς τοιούτους· κοινωνίαν, ἐνταῦθα τῶν ἁγίων πατέρων, οὐχὶ τὴν μέταληψιν τῶν ἁγιασμάτων ὀνομασάντων, ἀλλὰ τὴν τῶν ἱερῶν συμμεταχείρησιν καὶ κοινοπραξίαν, καὶ τὸ συλλειτουργεῖν τοῖς, οἷσπερ προσῆλθον.

^d Albaspin. Observat. lib. i. c. ii. (Paris. 1632. p. 5.) De ecclesiastica com-

right understanding of many ancient canons,^e where the words ἀκοινώνητος, ἀφορισμὸς, ἐκκηρύττεσθαι, which signify excommunication, can have no other meaning, as applied to the clergy, but only to denote their degradation or suspension.

munione hoc nunc habeo, quod tot genera et species hujusce communionis censeantur, quot sunt ordinum gradus, et quot modis ab his gradibus excidere poterant clerici: qui enim in episcopatum adlectus esset, longe alia ratione hujusce communitatis erat particeps, quam qui sola diaconatus aut presbyteriatus dignitate pollebat. Rursus quum nonnumquam evenire posset, ut gradus sui honore is non privaretur, cui tamen ob aliquod crimen ejusdem gradus munia obire non liceret, exempli causa, sedis et consessus honor cuiquam episcopo relinqui poterat, cui verbi divini administratio, pœnitentiæ concessio, et ceteræ ejusmodi episcopatus partes interdictæ et prohibitiæ essent; huic ergo, quamvis episcopo, non eadem erat pars, nec æqua omnino in eadem communione cum ceteris episcopis, quod videlicet de ea non nihil amisisset, et jus illud imminutum esset. Præterea notandum est, quotiescumque in canonibus a communione clerici secluduntur, quamvis nihil aliud adjectum sit, quo genus communionis significetur, id de ecclesiastica communione esse accipiendum: quæ ab iisdem ecclesiastica, nonnumquam etiam sacerdotalis vocatur.—Habert. Archierat. p. 745, 746. Non est contemnendum, quod monet aptissime Morinus, suspensionem significari aliquando nomine τοῦ ἀφορισμοῦ, separationis, quoties intentatur clericis ante depositionem, quasi eis eucharistica quidem communio relinquatur; sola vero ecclesiastica, quæ ad ordinis et ministerii executionem spectat, ad tempus interdicitur: ut Apostol. Can. xlv.—Suicer. Thesaur. Eccles. voce ἀφορισμὸς, tom. i. p. 600, 601. Est levior excommunicatio clericorum, quæ est privatio communionis ecclesiasticæ, seu segregatio et suspensio eorum ab officio. Atque de hac segregatione intelligendus est canon xlii. Apostol. (Labbé, vol. i. p. 35. c. xlii.) Ὑποδιάκονος, ἡ ἀναγνώστης, ἡ ψάλτης, τὰ ὅμοια ποιῶν, ἡ πανσάσθω, ἡ ἀφορίζεσθω ὡσαύτως καὶ λαϊκοί: ‘Hypodiaconus, aut lector, aut cantor’ similia faciens; nempe iis, quæ can. proxime præcedente episcopi, presbyteri, et diaconi facere vetantur, κύβοις σχολάζειν καὶ μέθαις, aleæ vacare aut ebrietati; vel desinat, vel segregetur.—Can. lvi. (Labbé, vol. i. p. 37. c. lv.) Εἰ τις κληρικὸς ὑβρίζει πρεσβύτερον ἢ διάκονον, ἀφορίζεσθω.—Can. lvii. (Labbé, vol. i. p. 37. c. lvi.) Εἰ τις κληρικὸς χολῶν, ἢ κωφὸν, ἢ τυφλὸν, ἢ τὰς βάσεις πεπληγμένον χλευάσει, ἀφορίζεσθω ὡσαύτως καὶ λαϊκός.—Vide etiam can. vi. xlv. lvi. lix. lxxii. In his canonibus τὸ τοῦ ἀφορισμοῦ ἐπιτίμιον, ut loquitur Theophylactus in 1. ad Timoth. i. ad v. 20. p. 753. notat privationem communionis ecclesiasticæ, seu segregationem clericorum et suspensionem ab officio: ita enim ἀφορισθέντες non possunt μηδὲ ὅλως ἱερατικὸν τι ἐνεργεῖν, ullum officium sacerdotale obire, ut de hac ἀφορισμοῦ specie scribit Balsamon ad can. lxxix. concilii Carthaginensis, p. 704.

* Quoted in the preceding note.

SECT. II.—*The Clergy usually punished by a removal from their Office, but not always subjected to public penance, as men wholly cast out of the Communion of the Church.*

This may be confirmed from an observation that has been made once before in a former book,¹ that some ancient canons expressly forbid the clergy to be punished by the ordinary way of excommunication, which implies a total removal from the communion of the Church; but thought it sufficient to punish them by a removal from their office; and that, because it was not proper to punish men doubly for the same offence. “If a bishop, presbyter, or deacon,” says one of the Apostolical Canons,^f “be taken in fornication, perjury, or theft, he shall be deposed, but not excommunicated: for the Scripture says, ‘Thou shalt not punish twice for the same crime.’” And the like rule is prescribed in the canons of Peter^g bishop of Alexandria, and those of St. Basil.^h

SECT. III.—*Yet in some special Cases both Penalties inflicted.*

Yet for some more flagrant crimes both penalties were inflicted, as appears from the same Apostolicalⁱ Canons, which order, that if any clergyman was found guilty of Simony, or any such heinous offence, he should not only be deposed from his office, but be cast out of the Church. And a great many learned men^k are of opinion, that this was the constant prac-

¹ Lib. vi. cap. ii. § ii. vol. ii. p. 107.

^f Can. Apost. c. xxiv. (Labbé, vol. i. p. 30.) Ἐπίσκοπος, ἢ πρεσβύτερος, ἢ διάκονος, ἐπὶ πορνείᾳ, ἢ ἐπιουρίᾳ, ἢ κλοπῇ ἁλοῦς, καθαιρεῖσθω, καὶ μὴ ἀφορίζεσθω· λέγει γὰρ ἡ γραφή, Οὐκ ἐκδικήσεις δις ἐπὶ τὸ αὐτό.

^g Petr. Alex. c. x. (ap. Bevereg. Pand. tom. ii. p. 15.) Οὐκ ἔστιν εὐλογον, &c. See vol. ii. p. 108.

^h Basil. can. iii. xxxii. li. See vol. ii. p. 108.

ⁱ Can. Apost. xxix. xxx. li. See vol. ii. p. 108.

^k Pagi Critic. in Baron. an. lxvii. n. xv. (xix. edit. Antwerp. 1705.) (Antwerp. 1727. vol. i. p. 57.) Sic intelligendus etiam Leo in epist. ii. ad Rusticum Narbonensem episcopum in Inquisitione secunda, ubi ait: ‘Alienum est consuetudine ecclesiastica, ut qui presbyterali honore aut in diaconi gradu fuerint consecrati, ii pro crimine aliquo suo per manus impositionem remedium accipiant pœnitendi; quod sine dubio ex apostolica traditione descendit.’ Quibus ex verbis eruitur, inquit Quesnellus, minoris ordinis clericos, inter quos subdiaconi numerabantur, non semper agendæ pœnitentiæ lege exemptos fuisse. Sed quod hanc disciplinam

tice of the Church even in the three first ages, when the Apostolical Canons were most in force. It is certain it was so in the time of Cyprian: for he speaking of Novatus, who was guilty of murder, in causing his own wife by a blow to miscarry, says, that for this crime he was not only to be degraded, or expelled the presbytery, but to be deprived¹ of the communion of the Church also. And in the following ages there are innumerable examples of this practice, as the learned reader may satisfy himself by consulting the passages^m referred to in the *Notes*.

a consuetudine ecclesiastica, immo ex apostolica traditione arcessit Leo, illud benigne intelligendum: nec enim de hac traditione uspiam apparet, quum potius tribus fere primis sæculis clericos etiam majores poenitentiae publicæ fuisse subjectos multis probet Morinus in commentario de Poenitentia.—Quesnell. not. in Leon. epist. ad Rustic. Narbon. modo cit. a Pagio.—Morin. de Poenit. lib. iv. c. xii. tot.—Fell. not. in Cyprian. epist. iv. ad Pompon. (Oxon. 1682. p. 9.) (p. 174, edit. Amstelodam. 1700.) *Abstinendo diacono.*] Pro recepto diu in ecclesia more; in laicorum crimina, excommunicatione reliquisque ecclesiæ censuris; at clericorum, depositione animadverti solitum. Sed primis tribus sæculis, episcopos, presbyteros, et diaconos poenitentiae publicæ et manuum impositioni, sicut laicos, obnoxios fuisse, res est manifesta.

¹ Cyprian. epist. xlix. al. lii. ad Cornel. (Oxon. 1682. p. 97.) (p. 238. edit. Amstelod. 1700.) Propter hoc se non de presbyterio excitari tantum, sed et excommunicatione prohiberi pro certo tenebat, etc.

^m Concil. Neocæsar. can. i. (Labbé, vol. i. p. 1480.) *Πρεσβύτερος ἐὰν γήμῃ, τῆς τάξεως αὐτὸν μετατίθεσθαι· ἐὰν δὲ πορνεύσῃ ἢ μοιχεύσῃ, ἐξωθεῖσθαι αὐτὸν ῥέλειον, καὶ ἀγεσθαι αὐτὸν εἰς μετάνοιαν.*—Concil. Agath. c. viii. (Labbé, vol. i. p. 1384.) Id etiam placuit, ut clericus, si relicto officio suo propter distractionem, ad sæcularem judicem fortasse confugerit, et [is, ad quem recurrit,] solatium ei defensionis impenderit, cum eodem de ecclesiæ communione pellatur.—Can. xlii. (p. 1390.) . . . Hoc quicumque clericus vel laicus detectus fuerit vel consulere vel docere, ab ecclesia habeatur extraneus.—Concil. Ilerdens. can. i. (vol. iv. p. 1611.) De his clericis, qui in obsessionis necessitate positi fuerint, id statutum est, ut, qui altario ministrant et Christi [corpus et] sanguinem tradunt, vel vasa sacro officio deputata contrectant, ut ab omni humano sanguine, etiam hostili, abstineant. Quod si in hoc inciderint, duobus annis, tam officio, quam communione priventur, cetera.—Can. v. . . Si iterato, velut canes ad vomitum, reversi fuerint, non solum dignitate officii careant, sed etiam sanctam communionem, nisi in exitu, non percipiant. Vide sis etiam Conc. Valent. Hispan. c. iii. Concil. Venetic. c. xvi. Concil. Aurelian. I. c. xi. Aurelian. III. c. iv. vii. et viii. Concil. Turon. I. c. iii. v. Concil. Tolet. II. c. iii. Concil. Tolet. XI. c. v. vi. Vigili Decret. c. vi. Felix III., Epist. ad Acacium, writes thus to him: 'Sacerdotali honore et communione catholica, nec non etiam a fidelium numero segregatus, sublatum tibi nomen et munus ministerii sacerdotalis agnosce.' Vide et Concil. Asiatic. Epist. ad Joan. Constantinop. in Synodo sub Menna, act. i. ap. Crab. tom. ii. p. 36. et Concil. Constantinop. sub Flaviano in act. i. Concil.

SECT. IV.—*Of Suspension from their Revenues.*

Now that which we are concerned at present to enquire after, are those punishments which particularly affected the clergy: and these were of three sorts; such as respected their maintenance, such as respected their office, and such as respected their persons in corporal chastisement and correction. Sometimes they were punished in their maintenance, by withdrawing the usual portion of the Church's revenues which was allotted to them out of the public stock for their maintenance and subsistence. The revenues of the Church, as has been observed in a former book,¹ were usually divided among the clergy once a month, whence it had the name of '*divisio mensurna*,' the monthly division: and when there was occasion to punish a delinquent clergyman for some less offence, it was done by withdrawing this usual portion of the monthly division from him. As appears from that of Cyprian,² who, speaking of some of the inferior clergy that had offended, says, "They should be withheld or suspended from their monthly division, but not be deprived of their ministerial office in the Church."

SECT. V.—*Of Suspension from their Office.*

Sometimes they were suspended not only from their revenues, but from their office and function. And this was either temporary and limited, or perpetual and without restriction. The temporary suspension was only a depriving them of the execution of their office for a certain term; and when that term was over, they had liberty to resume their place, and return to the execution of their office in all the parts and duties of their function: but the perpetual suspension was a total deprivation of them from all power and dignity belonging to the clerical office, and a reduction of them to the state and condition of laymen, without any ordinary hopes or prospect of ever recovering their ancient station. The former of these is

Chalced. ap. Crab. p. 780. where Eutyches is punished both with deposition and excommunication, as all heretics commonly were.

¹ Lib. v. c. iv. § i. ii. iii. vol. ii. p. 60, seqq.

² Cyprian. epist. xxviii. al. xxxiv. ad cler. (Oxon. 1682. p. 68.) Interim se a divisione mensurna tantum contineant, non quasi a ministerio ecclesiastico privati esse videantur. See note (r), page 344.

commonly called by the ancients 'abstention and suspension from communion,' meaning clerical communion only; and the latter vulgarly known by the name of degradation, de-ordination, or deposition from the office and order of the clerical function. Thus Cyprian writing to Rogatian, an African bishop, concerning a contumacious deacon who rebelled against him, bids him to depose him from his office, or at least suspend^o him. The penalty of suspension was for less crimes, as in the instance given in the Council of Epone:^p if a bishop, presbyter, or deacon be detected to keep dogs for hunting, or hawks for fowling, the bishop is to be suspended for three months, the presbyter for two, and the deacon for one. So by a canon of the Council of Lerida,^q if any clergyman in a siege bore arms, and killed a man, though it were one of the enemies, he was to be suspended from his office two years, and be rendered incapable of any farther promotion; because the canons in all cases whatsoever, peremptorily forbad a clergyman to be concerned in blood.

SECT. VI.—*Of Deposition or Degradation.*

The other sort of suspension, commonly called *καθαίρεσις*, Deposition or Degradation, was a total and perpetual suspension of the power and authority committed to a clergyman in his ordination. For as the Church had power to grant this

^o Cyprian. epist. iii. ad Rogat. (Oxon. 1682. p. 6.) (p. 173, edit. Amstelod.) Quod si ultra te contumeliis suis exacerbaverit et provocaverit, fungeris circa eum potestate honoris tui, ut eum vel deponas vel abstineas.

^p Concil. Epaonens. c. iii. (iv.) (Labbé, vol. iv. p. 1576.) Episcopis, presbyteris, atque diaconis canes ad venandum et accipitres [ad aucupandum] habere non liceat. Quod si quis talium personarum in hac fuerit voluntate detectus, si episcopus est, tribus mensibus se a communione suspendat; duobus presbyter absteineatur; uno diaconus ab omni officio et communione cessabit.

^q Concil. Ilerd. can. i. (iv. p. 1611.) De his clericis, qui in obsess-(obsid-)ionis necessitate positi fuerint, id statutum est, ut... ab omni humano sanguine, etiam hostili, se absteineant. Quod si in hoc inciderint, duobus annis, tam officio quam communione, [corporis Domini] priverunt:... et ita demum officio vel communioni reddantur; ea tamen ratione servata, ne ulterius ad officia potiora pro-move(ce)antur.—See other instances of suspension in Basil. can. lxi. (Labbé, vol. ii. p. 1752.) 'Αναγνώστης ἐὰν τῇ ἑαυτοῦ μνηστῇ πρὸ τοῦ γάμου συναλλάξῃ, ἐνιαυτὸν ἀργήσας, εἰς τὸ ἀναγνώσκειν δεχθῇσεται, μένων ἀπρόκοπος· ἐλεψιγαμήσας δὲ ἄνευ μνηστείας, παυθήσεται τῆς ὑπηρεσίας· τὸ αὐτὸ καὶ ὑπηρέτης. — Item in Concil. Bracar. III. c. i. v. Concil. Aurel. III. c. ii. xvi. xxv. Concil. Aurel. c. v. xviii.

authority and commission at first, so she had power to resume and withdraw it again upon great misdemeanours and just provocation. And then a clergyman, whatever character he sustained before, was totally divested both of the name and dignity, and power and authority, belonging to his former order and function. By some canons^r therefore he is said to be degraded, deprived, and turned out of office; by others^s to be totally deposed, παντελῶς καθαιρεῖσθαι; totally to fall from his order or decree,^t παντελῶς αποπίπτειν βαθμοῦ; to be de-ordained,^u or un-ordained; to be removed out of the order^x of the clergy; to cease to be of the number of the clergy;^y and to be reduced to lay-communion, that is, to the state and quality and condition of laymen. All these expressions, except the last, are commonly well understood by modern writers: but some, to serve a peculiar hypothesis, have invented very odd and strange notions of it. Therefore, to set the matter in a right light, and give a just account of the discipline of the Church, it will not be amiss to be a little more particular upon this point, and show distinctly what the ancients meant by this part of their discipline, which they call reducing a clergyman to the state and communion of laymen, which I shall make the subject of the following chapter.

^r Concil. Carthag. iv. c. xlviii. (Labbé, vol. ii. p. 1204.) Clericus, qui non promemendo aliquid in nundinis, vel in foro deambulat, ab officio suo degradetur. Can. xlix. Clericus, qui absque corpuseculi sui inæqualitate vigiliis deest, stipendiis privetur. Can. l. Clericum inter tentationes ab officio suo declinantem, vel negligentius agentem, ab officio suo removendum.—Concil. Tarræcon. c. x. Si qui ista (munera) probantur accipere, veluti exactores fenoris, aut usurarum possessores, secundum statuta patrum se noverit degradandos.

^s Concil. Antioch. c. v. (Labbé, vol. ii. p. 564.) Εἰ τις πρεσβύτερος, ἡ διάκονος, καταφρονήσας τοῦ ἐπισκόπου τοῦ ἰδίου, ἀφώρισεν ἑαυτὸν τῆς ἐκκλησίας . . τοῦτον καθαιρεῖσθαι παντελῶς, καὶ μηκέτι θεραπείας τυγχάνειν, μηδὲ δύνασθαι λαμβάνειν τὴν ἑαυτοῦ τιμὴν.

^t Concil. Ephes. c. vi. (Labbé, vol. iii. p. 806.) Εἰ τινες βουλευθεῖεν τὰ περὶ ἐκάστων πεπραγμένα ἐν τῇ ἁγίᾳ συνόδῳ τῇ ἐν Ἐφέσῳ οἰψόδηποτε τρόπῳ παρασαλεύειν, ἡ ἁγία σύνοδος ὥρισεν, εἰ μὲν ἐπίσκοποι εἴεν, ἡ κληρικοὶ, τοῦ οἴκειον παντελῶς αποπίπτειν βαθμοῦ· εἰ δὲ λαϊκοὶ, ἀκοινωνήτους ὑπάρχειν.

^u Act. Servatii Tungrensis ap. Crab. Conc. tom. i. p. 318. Nulla mora Ephratas deordinetur.

^x Concil. Arelat. I. c. xiii. (Labbé, vol. i. p. 1428. D 4.) Ab ordine cleri amoveatur.

^y Concil. Nicæn. c. ii. (Labbé, vol. ii. p. 29. C 5.) Πεπαύσθω τοῦ κλήρου.

CHAPTER II.

OF REDUCING THE CLERGY TO THE STATE AND COMMUNION
OF LAYMEN, AS A PUNISHMENT FOR GREAT OFFENCES.

SECT. I.—*Lay-Communion not the same as Communion in one kind only.*

LAY-COMMUNION in a layman was no punishment, but a privilege, and one of the greatest privileges that belonged to him as a Christian: for it was entitling him to all the benefits and advantages of Christian communion. But in a clergyman it was one of the greatest of punishments, reducing him from the highest dignity and station in the Church to the level and standard of every ordinary Christian. But now the question is, wherein the nature of this punishment consisted. Bellarmine^a and some other writers of the Romish Church, taking the word in a new and modern sense, expound it of communion in one kind, and bring it as an argument to prove that the primitive Church denied the people the use of the cup in the Lord's supper, and administered the communion to them only in one kind, because the word lay-communion bears that signification in the present Church of Rome. But this is only begging a principle, and supposing a practice, of which there is not the least footstep to be met with in the ancient Church, as I have fully demonstrated in a former¹ book. And it is such a piece of ignorance and misrepresentation of the ancient discipline, as other learned men in the Romish Church are commonly ashamed of. The notion is entirely rejected and

^a Bellarmin. de Euchar. lib. iv. c. xxiv. p. 678. (tom. iii. Opp. p. 293, g. h. edit. Colon. 1615.)

¹ Lib. xv. c. v. vol. v. p. 208. seqq.

confuted by Lindanus,^b Albaspinæus,^c Peter de Marca,^d Rigaltius,^e Durantus,^f and Cardinal Bona,^g who tacitly reflects

^b Lindan. Panopl. lib. iv. c. lviii. Laicam communionem sunt qui existimant fuisse S. eucharistiæ sub una panis specie communionem. Quod quam sit a veritate alienum, mecum agnosceat spero, qui priscae consuetudinis sedulus investigator considerarit, laicam communionem tunc vel in primis in usu fuisse, quum passim prisco de more utraque communionis species et panis et calicis toti exhibebatur ecclesiæ.

^c Albaspin. observat. lib. i. c. iv. tot. (Paris. 1623. p. 14.)

^d Marca, tract. in cap. Clericus, ad calcem Baluzii de emendat. Gratiani, p. 585. (In opusculis Petr. de Marca, § xvi. p. 369. Paris. 1681.) Quæ laica communio significat, clericum non solum e consensu cleri extra cancellos depulsum, et redactum in locum et ordinem laicorum ad communicandum synaxi, sed deturbatum omnino a corpore cleri, et ad laicam conditionem detrusum; ita ut seposito privilegio, quod antea illi competeat, nunc pertineat ad forum sæculare in causa civili et criminali: in quo distinguitur hæc communio laica a peregrina; quum ista retineat clericum in ordine cleri (etsi gradu consessus et sportulis ordinariis multatum, præter alimenta) laica vero eum ab illo ordine depellat.

^e Rigalt. in Cyprian. epist. lii. ad Anton. (Oxon. 1682. p. 106.) *Ut laicus communicet.*] Sæviente adversus Christianos persecutione, si quem forte in ordine constitutum ecclesiastico, puta episcopum, presbyterum, diaconum, ex illi metus aut violentia tormentorum de fide Christo data deiecerat, is ad fidem reversus, postquam impetrata peractaque poenitentia satis fecerat ecclesiæ, recipiebat quidem ecclesiasticam communionem, hoc est, societatem et conversationem cum ceteris fidelibus, ita ut fieret particeps corporis Christi; sed non recipiebat locum, quem in ordine prius tenuerat. Itaque de episcopo, de presbytero, de diacono fiebat id, quod erat, priusquam fuisset ordinatus. Reddebatur illi locus in ecclesia, non dignitas loci. Communicabat ut laicus sive plebeius: utebatur jure ceterorum fidelium, qui nondum erant promoti ad quemquam ordinem ecclesiasticum. Hæc erat tunc temporis 'communio laica:' cujus adeo participes eucharistica sacramenta, speciem inquam utramque panis et vini, sumebant. Hodie 'communio laica' diceremus, quæ sub una tantum specie panis conceditur, etiam episcopis et sacerdotibus extra sacrificiorum officia communicantibus. Immo et communionis vocabulum vix audimus alio significato quam eucharistiæ celebrandæ.

^f Durant. de Ritib. Eccles. lib. ii. c. lv. n. 6. Verius est, 'laicam communionem' dictam, quæ extra sacratorem locum sacrificii fit, ubi tum sacerdos conficiens, tum ministri communicabant. Solis enim sacratis licebat ad altare accedere et communicare. Synod. Laodic. c. xix. *Καὶ μόνοις ἐξόν εἶναι τοῖς ἱερακοῖς εἰσέραι εἰς τὸ θυσιαστήριον, καὶ κοινωνεῖν.* Id. in synod. vi. in Trull. can. lxviii. Ea vero loci, quoad communionem, distinctio adeo tum pertinebat ad ordinis ecclesiastici dignitatem et venerationem, ut gravioris supplicii loco sacerdotes ceterique clerici extra sacros cancellos, cum laicis et veluti laici, communicarent.

^g Bona, de Reb. Liturgic. lib. ii. c. xix. § iii. Recentiores, qui audito nomine communionis, ejus veteri notione neglecta, id solum concipiunt, quod hodie ea

upon Bellarmine and his followers for their childish explication of this ancient term to make it comply with the modern practice. "They no sooner hear (says he) of the name lay-communion, but overlooking the ancient notion, they presently take it only in the sense which it now bears, and interpret it communion in one kind: the falseness of which we may learn from hence, that we often read of clergymen being thrust down to lay-communion at that time, when laymen communicated in both kinds."

SECT. II.—*Neither does it signify communicating among Laymen without the rails of the Chancel.*

Lindanus had long before used the very same argument, and advanced a more probable explication, that lay-communion might denote a clergyman's being thrust down to communicate among laymen without the rails of the chancel: which has so much of plausibility in it, that the learned Dr. Forbes^h and Vossiusⁱ give in to this opinion. But though this has something of truth in it, yet it does not express the full meaning of lay-communion. For a man might be admitted to lay-communion not only in the Church, but in a private house, or upon his death-bed, where there could be no such distinction.

voce significatur, 'laicam communionem' nihil aliud esse putant, quam perceptionem eucharistiæ sub unica specie aut extra cancellos, more laicorum; quod quam falsum sit, vel ex eo liquet, quod sæpe clericos ad laicam communionem detrusos legimus eo tempore, quo etiam laici sub utraque specie communicabant. (Antwerp. 1677. p. 601.)

^h Forbes. Irenic. lib. ii. c. xi. p. 221. (part i. Opp. p. 437. § 14, edit. Amstelod. 1703.) 'Laica illa communio' non fuit communio sub una tantum specie, sicut pueriliter nugatur Bellarminus, lib. iv. de Eucharist. c. xxiv. "Sed neque hæc," &c.: sed fuit sub utraque specie communio extra cancellos sanctuarii, seu loci illius, qui erat episcopo et presbyteris et diaconis tributus: eratque laicis, celebrationis tempore, inaccessus.

ⁱ Voss. Thes. Theol. Disput. xxiii. thes. v. p. 514. (p. 327, edit. Hag. Comit. 1658.) 'Communio laica' dicebatur, quando clerici, ob delictum aliquod, non cum clero, sed inter laicos extra cancellos, communicabant.

SECT. III.—*But a total degradation or deprivation of Orders, and reduction to the state and condition of Laymen.*

Therefore the full import of the phrase, and the adequate notion of reducing a clergyman to lay-communion, is totally degrading and depriving him of his orders ; that is, the power and authority of his clerical office and function, and reducing him to the state and quality and simple condition of a layman. Thus Chamier rightly explains it^k against Bellarmine, when he observes, that it was called 'lay-communion' neither from the place of communicating, nor from communicating in one species, nor from the time and order of communicating, the laity after the clergy, but from the condition and quality of the person communicating ; namely, because he that before was a clergyman, or in the roll and nomenclature of the clergy, is now become a layman, and reckoned as one in the order of laymen only. This supposes a power in the Church, not only of conferring clerical orders at first to men, and promoting them from laymen to be bishops, or presbyters, or deacons ; but also a power of recalling these offices, and divesting them of all power and authority belonging to them, by degrading clergymen upon just reasons, and reducing them to the state and quality of laymen again. This is undoubtedly the true meaning of all those ancient canons and writers, which speak so often of degrading clergymen for their offences, and allowing them only to communicate in the quality of laymen. Hereby they were deprived of their order and office, and power and authority, and even the name and title of clergymen ; and reputed and treated as private Christians, wholly divested of all their former dignity, and clerical powers and privileges, and reduced entirely to the state and condition of laymen. Of which, because I have had occasion to discourse at large in another work,¹ I shall not need to say much in this place, but only add a few testimonies that were then omitted. In the third Council of Orleans there

^k Chamier. de Eucharist. lib. ix. c. iii. num. 33. tom. iv. p. 487. Appellatam fuisse 'laicam communionem,' non a loco, non a speciebus, non a tempore, sed a persona : nimirum quod qui ante fuerat clericus, sive in clericorum nomenclatura, nunc sit laicus et in laicorum ordine.

¹ Scholast. Hist. of Lay Baptism, part ii. chap. iv.

is a canon,¹ which orders, that if a clergyman, either by his own confession or conviction, was proved guilty of adultery, he should be deposed from his office, and be confined to lay-communion in a monastery all his days. And another canon^m appoints, that if any clergyman was convicted of theft or fraud, because those were capital crimes, he should be degraded from his order, and only be allowed lay-communion. So in the collection of Martin Bracarensisⁿ made out of the Greek canons for the use of the Spanish Church, it is ordered, that if any one is surreptitiously ordained, who after baptism has been guilty of murder, either by immediate commission of the fact, or by command, or counsel, or defence, he shall be deposed, and only be admitted to lay-communion all his days. Gelasius^o has a like decree, made in the case of a presbyter, who in a quarrel struck out the eye of another: he orders him to be deposed from his office, and to be cloistered in a monastery, there to repent of the fact, and only to have lay-communion for his whole life. And Gratian^p cites an order of the Council of Lerida to the same purpose, that if clergymen, who are once corrected for their offence, shall relapse, and return to their vomit again, they shall not only be deprived of the dignity of their office, but continue all their lives incapable of receiving the communion even as laymen, which shall only be granted them at their last hour.

¹ Concil. Aurel. iii. can. vii. (Labbé, vol. v. p. 297.) Si quis adulterasse aut confessus fuerit, vel convictus, depositus ab officio, communione concessa, in monasterio toto vitæ suæ tempore retrudatur.

^m Ibid. can. viii. (Labbé, vol. v. p. 297.) Si quis clericus furtum aut falsitatem ad miserit, quia capitalia et ipsa sunt crimina, communione concessa, ab ordine degradetur.

ⁿ Martin. Bracar. collect. can. c. xxvi. Si quis homicidii aut facto, aut præcepto, aut consilio, aut defensione, post baptismum conscius fuerit, et per aliquam subreptionem ad clericatum venerit, dejiciatur, et in finem vitæ suæ 'laicam communionem' tantummodo recipiat.

^o Gelas. epist. ad Ruffin. ap. Gratian. Distinct. lv. c. xiii. Bene Fraternalitas tua fecit ab officio eum presbyterii remove. Hoc tamen sollicitudinis tuæ sit, ut locum ei poenitentiae constituas, et in aliquo eum monasterio retrudas, laica tantum sibi communione concessa.

^p Concil. Ilerd. § v. ap. Gratian. Distinct. l. c. lii. Si iterato, velut canes ad vomitum, reversi fuerint, non solum dignitate officii careant, sed etiam sanctam communionem, nisi in exitu, non percipiant. (Labbé, vol. iv. p. 1612.)

SECT. IV.—*Clergymen thus reduced, seldom allowed to recover their ancient station.*

The plain result of this discourse is, that reducing a clergyman to the communion of laymen was a total deprivation and divesting him of his office and orders. So that if he now pretended to act as a minister, his actions were reputed null and void, and as no other than the actions of a layman. The learned Dr. Forbes has rightly observed this^a in the ancient discipline, and I cannot better express it than in his words: "He that is deposed with a plenary and perfect deposition, cannot now validly exercise the offices that belong to his order, because he wants his order and the power of his order. He is now nothing but a mere layman, and in so much a worse condition than other laymen, because the restitution of such an one to his office is a much more difficult thing than the promotion of other laymen." Indeed there are very few instances of recalling such to the clerical office again, which was never done but upon some great necessity or very pressing reason: as in the case of Maximus the confessor, when he returned from the Novatian schism, and brought over a great multitude of the people with him; Cornelius, bishop of Rome, in regard to him as a confessor, and as one that had done good service to the Church by the influence of his example, dispensed with the general rule for his sake, and received him^r to his place in the presbytery again. And the Council of Nice allowed the same favour to the Novatians, and the African fathers to the Donatists, with a charitable view, to put an end to those great and inveterate schisms. But these were only exceptions to the common rule, and dispensations with the general orders and standing discipline of the Church.

^a Forbes. Irenic. lib. ii. c. xi. p. 222. Depositus depositione plena et perfecta non valide exercet ea, quæ sunt ordinis. Et jam non nisi laicus est, et tanto deteriore conditione, quam alii laici, quod longe difficilior sit ejus restitutio, quam laicorum promotio. (Not. In editione Amstelod. 1703. fol. hæc non invenio: forte de industria omissa sunt. Vide præfationem. Grischov.)

^r Cornel. epist. xli. al. xlix. ad Cyprian. (Oxon. 1682. p. 93.) (p. 235, edit. Fell. Amstelod.) Maximum presbyterum locum suum agnoscere jussimus.

SECT. V.—*Notwithstanding the pretence of the indelible character of Ordination.*

It may perhaps be said, there was still an inherent power and authority in such deposed clerks, and that their deposition did not totally annul their ordinations: for they still retained the indelible character of their respective orders: and therefore they might be ministers still, and their ministerial actions stand good and authentic, notwithstanding any power and authority in the Church to depose and degrade them. But as this is next to a contradiction in itself, that a man should be deposed from his order, and yet retain his order still, with all the spiritual power belonging to it; so it implies such a notion of that which is commonly called, the indelible character of ordination, as no ancient writer ever thought of. For the notion that the ancients had of the indelible character of ordination, was no more than they had of the indelible character of baptism: that as the outward form of baptism, washing or immersion in water, though but a transient act, served for ever to distinguish a Christian from a mere heathen or Jew; so as that, though he apostatised from the Christian faith into Judaism or Gentilism, he should still retain so much of the Christian character, as, upon his conversion and return to the faith, not to need a second baptism: in like manner the outward form of ordination, which is imposition of hands designing a man to any clerical office, though it be but a transient act, was sufficient to distinguish such an one from a mere layman, who never had any such ceremony of ordination; so that by this mark or character of his office once received, though he should afterward forfeit his office and all the power and honour belonging to it, he would always remain distinguished in some measure from those who never had such an office: and though he should be wholly divested of his office and power, and reduced to the simple capacity and condition of a layman, yet so much of the marks and footsteps of his former office would remain upon him, as that if he should be recalled again to his office, though he might need a new commission, he would not need this outward character or ceremony of a new ordination. There is no one has explained or illustrated the sense of the

ancients upon this point with more accuracy than the learned Dr. Forbes : and therefore, for further confirmation, I shall here transcribe his words : "There remains" (says he) some distinguishing character in a man that is deposed, by which he is distinguished from other laymen : but to make this distinction, it is not necessary there should be any form impressed, but a transient act that is long ago past, is sufficient, viz. that he was once a person ordained. The character that remains in a deposed person, is not the character of any present office or power, but only some footstep or mark of an honour that is past, and of a power that he once had : by which footstep he is distinguished from other laymen, who never were ordained ; and may, after a sufficient penance performed, if he be found fit, and the advantage of the Church so require, be restored again without a new ordination." As if a prince should imprint upon his nobles the marks and characters of the offices which they bare under him ; making the impress or figure of a key upon the arm of his chamberlain with an hot iron, and the image of a horse upon the arm of the master of his horse, and the image of a cup upon the arm of his butler : and after this it should happen, that the prince being justly offended at them, should depose them from their offices, and put others in their room, signing them with the characters of their offices likewise. Those marks, which in the officers, who were not deposed, were characters of their present power, would in those that were deposed, be only footsteps of their by-past power : and whatever thing they who were deposed, should do relating to those offices, would have no more validity, than if it was done by any private man, who never bare any such office. Yet in this there would be a difference, that if the prince pleased to restore those whom he had deposed, there would be

* Forbes. Irenic. lib. ii. c. xi. p. 224. Manet quidem in deposito aliquid distinctivum, quo ab aliis laicis distinguitur : ad distinctionem autem non est necessaria aliqua impressa forma, sed sufficit actus transiens in præteritum, nempe quod sit aliquando ordinatus. Manet in deposito non character præsentis alicujus officii aut potestatis, sed vestigium quoddam præteriti honoris et aliquando habitæ potestatis ; per quod vestigium ab aliis laicis, numquam ordinatis, distinguitur : et peracta sufficienti poenitentia, si idoneus inveniatur, et utilitas ecclesiæ postulet, restitui potest absque nova ordinatione. See note (q) p. 350.

no need to set a new mark upon them; but that footstep or remains of their ancient power would now become again the character of their present power. By this illustration, which justly represents the sense of the ancients, it is easy for any one to apprehend, how far the discipline of the Church in deposing clergymen extended: namely, that it not only suspended them from the execution of their office, but deprived them of their office, and took away their orders from them; that they were thenceforth no more than laymen, only with this distinction, that they had the external character of a by-past office, which other laymen wanted; that now they had neither the office of clergymen, nor the power of it; nor were their actions of any other account in the Church than as the actions of private men and laymen. Thus far the Church proceeded in her censures of clergymen that submitted to her discipline, and were not refractory and contumacious; she allowed them the benefit of lay-communion, which was a moderation of their punishment in regard to their submitting quietly to her discipline and censures.

SECT. VI.—*But sometimes excommunicated, as well as deposed, and denied the Communion of Laymen.*

But if they continued contumacious and stubborn, opposing her first censures, and acting as clergymen in contempt of them; she then proceeded one degree farther with them, adding to their deposition a formal excommunication, and denying them even the communion of laymen. Thus Arius, and many other first founders of heresies, were anathematized and excommunicated, as well as degraded. And there are abundance of instances of the like proceeding in Cyprian,^t and the Apostolical Canons,^u and the Council of Sardica,^z and the Council of Colen,^y

^t Cyprian. epist. xlix. al. lii. ad Cornel. (Oxon. 1682. p. 96.) (p. 237, edit. Amstel. 1700.) Quibus litteris et didicimus, et docere atque instruere ceteros cœpinus, Evaristum de episcopo jam nec laicum remansisse, cathedræ et plebis extorrem, et de ecclesia Christi exulem, per alias longe provincias oberare, etc.

^u Canon. Apost. xxix. c. xxvii. (Labbé, vol. i. p. 29.) Ἐἰ τις ἐπίσκοπος, ἢ πρεσβύτερος, ἢ διάκονος, καθαιρεισθεὶς δικαίως ἐπὶ ἐκκλημασί φανεροῖς, τολμήσειεν [ἐφ]άψασθαι τῆς πόρε ἐγχειρισθείσης αὐτῷ λειτουργίας· οὗτος παντάπασιν ἐκκοπήσθω τῆς ἐκκλησίας. — Can. xxx. (p. 30.) Ἐἰ τις ἐπίσκοπος διὰ χρημάτων τῆς ἀξίας ταύτης ἐγκρατὴς γένηται, ἢ πρεσβύτερος, ἢ διάκονος, καθαι-

and the Council of Eliberis,* and the Council of Rome^a under Felix III. All which because I have produced at large upon another¹ occasion, I think it needless to repeat them in this place.

SECT. VII.—*Sometimes removed and corrected by the assistance and authority of the secular power.*

We are likewise to observe, that in case of contumacious contempt of her censures, the Church sometimes had recourse to the secular powers; craving their aid and assistance, either to remove a stubborn clerk from his station and honourable post in the Church, which he obstinately detained after deposition; or else to inflict some other punishment upon him for his chastisement and correction. We have seen several instances of this before in the general account of the exercise of discipline² upon all Church-members, related from Eusebius and the Council of Antioch, and the third Council of Carthage, and the African Code; where addresses are made, or appointed to be made to the secular powers, some heathen, and some

ρείσθω καὶ αὐτοὺς, καὶ ὁ χειροτονήσας, καὶ ἐκκοπτίσθω τῆς κοινωνίας, παντάπασι ὡς Σίμων ὁ μάγος ἀπ' [ὕπ'] ἐμοῦ Πέτρου.

* Concil. Sardic. can. i. (Labbé, vol. ii. p. 628.) Ἑγοῦμαι μὴδὲ λαϊκῶν ἔχειν τοὺς τοιοῦτους χρῆναι κοινωνίαν.—Can. ii. Καθάπαξ οὖν τὰς ῥαδιουργίας τὰς τοιαύτας καὶ τέχνας κολαστίας εἶναι νομίζω, ὥστε μὴδένα τοιοῦτον μὴδὲ ἐν τῇ τέλει λαϊκῆς γοῦν ἀξιοῦσθαι κοινωνίας.

† Concil. Agrippin. ap. Crab. tom. i. p. 317. (Labbé, tom. ii. p. 615.) Quia Euphrata Christum Deum negat, consentio eum episcopum esse non posse; qui nec laicam debet communionem accipere.

‡ Concil. Illiberit. c. xviii. (al. xix.) (Labbé, vol. i. p. 972.) Episcopi, presbyteri, et diacones, si in ministerio positi, detecti fuerint, quod sint mœchati, placuit, et propter scandalum et propter profanum crimen, nec in fine eos communionem accipere debere. Can. lxxvi. Si quis diaconum se permiserit ordinari, et postea fuerit detectus in crimine mortis, quod aliquando commiserit; si sponte fuerit confessus, placuit eum, acta legitima pœnitentia, post triennium accipere communionem. Quod si alius eum detexerit, post quinquennium, acta pœnitentia, accipere communionem laicam debere.

§ Concil. Rom. III. sub Felice III. can. ii. (Labbé, iv. conc. p. 1076. B 13.) Quia idem Dominus atque Salvator clementissimus est, et neminem vult perire, usque ad exitus sui diem, in pœnitentia (si respiscunt) jacere conveniet: nec orationi non modo fidelium, sed ne catechumenorum omnimodis interesse, quibus communio laica tantum in morte reddenda est.

¹ Scholast. Hist. of Bapt. part ii. chap. v.

² Lib. xvi. c. ii. § iii. vol. v. p. 437, seq.

Christian, imploring their assistance to remove some obstinate and contumacious bishops and presbyters from their places, when they would not obey the decrees of the Church, but retain their offices and preferments in spite of her censures. And of these I need not be more particular in this place: as neither of those other various temporal penalties which the wisdom of the state thought fit to inflict upon heretics in general, laymen as well as clergymen, to discountenance heterodoxy, and give more effectual force and vigour to the censures of the Church: for of these I have given a sufficient account in discoursing of the punishments of heresy, in the former book.

SECT. VIII.—*What meant by the punishment called Curiae tradi, or delivering up to the Secular Court.*

But there was one particular civil punishment peculiar to delinquent clergymen, which must be taken notice of in this place. The ancient law comprises it under the name of 'Curiae tradi,' delivering up to the secular court: which, as Gothofred observes,^b has a different meaning in the ancient law from that which the modern use and practice has put upon it. For among the modern canonists it signifies delivering a clergyman up to the secular judge after degradation, to be punished for some great crime with death, or such capital punishment as the Church had no power to inflict upon him: but in the old law, the Curia has a larger sense, not only to denote a judge's court, but the corporation of any city, the members of which were commonly called Decuriones and Curiales. In this there

^b Gothofred. in Cod. Theod. lib. xvi. tit. ii. de Episcop. leg. xxxix. (Lugdun. 1665. vol. vi. p. 79.) Depositus seu exactoratus episcopi iudicio, velut indignus clericatu et ob improbitatem, vel etiam spontaneus clericatus desertor, prout natales et facultates ejus sunt, vel curiæ vel collegio civitatis suæ sociari, non etiam ad militiam seu officia quæcumque admitti, id est, officiales judicum fieri, hac Honorii constitutione anno Domini 408, quam memorat Justinianus et firmat l. 53. § i. Cod. de Episcopis, jubetur: pœna duarum librarum auri Decemprimis Curialium indicta, si cum aliquibus colluserint. Decemprimos scilicet Curiae sollicitudo respiciebat, ut ne qui curiæ obnoxii elaberentur. Illud ex hac lege vulgo colligitur, pœnæ loco quem olim Curiae deditum. . . . Neque enim pœnæ loco hac lege clerici Curiae tradi jubentur: verum ecclesiasticos, ecclesia dejectos vel ecclesiam sponte deserentes, curiæ tradi ceu vacantes jam. Quo autem sensu voluerint Pontificiarum epistolarum auctores Curiae tradi clericos episcopis suis contumaces, (veluti Pii epist. ii. p. 199. et Fabiani ii. p. 300. Stephani ii. p. 337.) canonistæ tumulantur.

were some honourable, and some servile offices. And therefore when a clergyman was degraded for any offence, and reduced to the quality of a layman; then, besides that he lost all the privileges and exemptions that by law and imperial favour belonged to the clergy, he was obliged to serve the Curia, or secular corporation of his city, and that many times only in some mean office and servile condition, by way of additional civil punishment for having transgressed the laws of the Church, and the rules of his sacred profession and venerable function. And this was a certain way of precluding him from all hopes ever after of regaining his clerical dignity again. For as the laws absolutely prohibited¹ any of the Curiales to be ordained at first, because they were tied to certain municipal and civil offices inconsistent with the spiritual; so if any of the clergy were once degraded and taken into the power of the secular Curia or corporation, there was no possibility of their returning to the ecclesiastical state again. And therefore Honorius made this a law, that the Curia should immediately lay hold of such delinquents, to render their punishment irreversible and perpetual. “If a bishop,” says the law,² “shall condemn any clergyman as unworthy of his office, and separate him from the ministry of the Church; or if any one voluntarily desert his sacred profession, let the Curia immediately lay claim to him, that he may no longer be at liberty to return to the Church again: and according to the quality of the man, or the quantity of his estate, let him either be taken into the Curia, or some collegiate company of the city, and be obliged to undergo those public burdens or necessities which he shall

¹ Vide lib. iv. c. iv. § iv. Lib. v. c. iii. § xv. vol. ii. p. 53.

² Cod. Theod. lib. xvi. tit. ii. de Episcopis, leg. xxxix. (Lugdun. 1665. vol. vi. p. 78.) Quicumque clericum indignum officio suo episcopus judicaverit, et ab ecclesiæ ministerio segregaverit: aut si qui professum sacræ religionis sponte dereliquerit, continuo sibi eum curia vindicet: ut liber illi ultra ad ecclesiam recursus esse non possit: et pro hominum qualitate, et quantitate patrimonii, vel ordini suo, vel collegio civitatis adjungatur; modo, ut quibuscumque apti erunt publicis necessitatibus obligentur: ita ut concludio quoque locus non sit. Per singulos igitur binæ libræ auri inferendæ ærario nostro a Decemprimis Curialibus exigantur: si aliquibus illicitam conhibentiam et concludia fœda præstiterint: hominibusque improbiis ab omnibus officiis militiæ aditus obstruatur.

be found qualified for, and this without any collusion, under the penalty of a forfeiture of a considerable sum of gold, to be levied upon the Decemprimi, the ten principal men of the Curia, if they connived at any such collusion: and the offending clerk so degraded is farther tied up by a negative punishment, never to hold any office or place under any of the secular judges." Justinian renewed and confirmed this law in one of his Novels; ^d and by another, imposed a like punishment upon any monk that should desert his monastery, to betake himself to any secular employment: such an one was to serve ^e all his life in some mean and servile office under the judge of the province; and only have this fruit of his change, that for despising his sacred ministry he should be tied to the slavish attendance upon an earthly tribunal.

But besides this, there was another way of delivering over delinquent clergymen to the secular courts and civil judges; which was, when they committed such crimes as were properly of civil cognizance, and might be heard and punished as crimes against the state and commonwealth. For clergymen were considered in a double capacity, as ministers of the Church, and as members of the commonwealth. Whatever crimes they committed in the first capacity, they were indeed liable primarily to be judged by the bishops of the Church, as the proper judges of ecclesiastical causes: yet if their crimes were very flagrant, such as heresy, or simony, though these were properly ecclesiastical causes, yet the criminals might be turned over to the secular judges, after the ecclesiastical sentence was passed upon them: for such crimes were punished both by Church and state with their respective censures. If their crimes were such as more nearly and directly affected the peace and tranquillity of the commonwealth; such as treason,

^d Justin. Novell. cxxiii. c. xiv. (Amstel. 1663. p. 171.) Εἰ μετὰ τὴν χειροτονίαν πρεσβύτερος ἢ διάκονος ἢ ὑποδιάκονος ἀγάγεται γαμετήν, ἐκβαλλέσθω τοῦ κλήρου, καὶ τῇ βουλῇ καὶ τάξει τῆς πόλεως, ἐν ᾗ κληρικὸς ἦν, μετὰ τῶν ιδίων πραγμάτων παραδιδόσθω.

^e Justin. Novell. v. c. vi. (Amstel. 1663. p. 11.) Τῆς οὐσίας αὐτοῦ εἰς τὸ μοναστήριον ἀπομενούσης, αὐτὸς ἐν τοῖς ταξιώταις τοῦ λαμπροτάτου τῆς ἐπαρχίας ἄρχοντος τετάξεται, καὶ τοῦτον ἔξει τῆς μεταβολῆς τὸν καρπὸν καὶ ὅγε τὴν θείαν λειτουργίαν ὑπεριδὼν, δικαστηρίου χθαμαλοῦ προσκαρτερεῖτω δουλεία.

and sedition, and murder, and robbery, and the practice of magical and pernicious arts; in that case, bishops not only might, but were obliged, *ex officio*, to turn over a degraded clerk to the secular court and a competent judge, to be punished according to the quality of his offences. There is a famous instance relating to this matter in the history of the acts of the Council of Chalcedon, reported out of the acts of the Council of Tyre, where Ibas bishop of Edessa was accused for intending to promote one Abraamius a deacon to a bishoprick, when he had confessed himself guilty of magical practices before the bishop and all the clergy: and it is added by way of aggravation of the bishop's fault,^f that he kept the paper of his magical enchantments by him, when he ought to have presented the execrable criminal to the judge of the province, according as the laws directed.—By which one instance it is easy to apprehend, that there were some crimes both of ecclesiastical and civil cognizance: and when any such a clergyman was deposed in an ecclesiastical court, the bishop was obliged to remit him to a secular judge, to be punished with civil punishments as a layman according to the nature and quality of his offences. And in this case I conceive they treated him as an excommunicate person, not barely reduced to lay communion, but one degree lower, being thrust down to the lowest rank of notorious criminals, and denied the common benefit and privilege of those who were allowed to partake of the communion of laymen. Of which kind of censure there are several instances in the Apostolical Canons, and the Councils of Eliberis, Colen, and Sardica: which because I have produced them at large upon another occasion,¹ I forbear to relate them in this place, and proceed to another enquiry concerning the punishment which was commonly called 'communio peregrina,' or reducing clergymen to the communion of strangers.

^f Concil. Chalced. act. x. (Labbé, tom. iv. p. 647. C 9.) *Καὶ ἔχει παρακατασχῶν τὸν χάριτῃν τῶν γοητευτικῶν ἐπικλήσεων ὁ εὐλαβέστατος ἡμῶν ἐπίσκοπος, δόξιδων τῷ ἀρχοντι τῆς ἐπαρχίας τὸ ἀπηγορευμένον προσενεγκεῖν, κατὰ τὴν ἀκολουθίαν τῶν νόμων.*

¹ Scholast. Hist. of Baptism, part ii. chap. v.

CHAPTER III.

OF THE PUNISHMENT CALLED 'PEREGRINA COMMUNIO,' OR
REDUCING CLERGYMEN TO THE COMMUNION OF STRAN-
GERS.SECT. I.—*The several Canons wherein this punishment is men-
tioned.*

THERE is no one question in all the ancient discipline that has more exercised the pens of learned men than this about the punishment called 'peregrina communio,' the communion of strangers. It plainly appears from all the canons wherein any mention is made of it, that some punishment is intended to be peculiarly inflicted on the clergy for some special offences; but it is not so easy to discover what sort of punishment it was. I will first set down the canons that mention it, and then the different sentiments of learned men concerning it, pointing out that which seems to be the most rational account of it, with some confirmation out of ancient history. The first Council that mentions it is the Council of Riez,^a an. 439, where it is determined in the case of a schismatical bishop returning to the Catholic Church, that he shall only be allowed to be a chorepiscopus in some country church under another bishop, or else be content with the communion of strangers. The next council that mentions it, is the Council of Agde,^b an. 506; where in one canon it is determined, 'that if any clergyman be found guilty of robbing the Church, he shall be reduced to the

^a Concil. Regens. c. iii. (tom. iii. Concil. p. 1286. fin.) Liceat ei unam parochiarum suarum ecclesiam cedere, in qua aut chorepiscopi nomine, aut peregrina, ut aiunt, communione foveatur.

^b Concil. Agath. c. v. (Labbé, vol. iv. p. 1383.) Si quis clericus furtum ecclesie fecerit, peregrina ei communio tribuatur.

communion of strangers.' And in another,^c 'if any contumacious clerk despises the communion, or neglects to frequent the Church, or fulfil his office, he shall be reduced to the communion of strangers, so as that when he repents and reforms, he may have his name written again in the *Matricula*, or roll of the clergy, and obtain his degree and dignity as before among them.' After this, in the Council of Lerida, an. 539, we find a like decree,^d 'that in case any clergyman upon the death of the bishop pillage his house, or suppress any thing by fraud to the detriment of his successor, he shall be reputed guilty of sacrilege, and condemned with the greater excommunication, and at the utmost only be allowed the communion of strangers.' These are the canons wherein this punishment, or moderation of punishment (call it which you please) is mentioned: but so little light can be had from the canons themselves, as to the nature of the punishment, that it is no great wonder that learned men have run into various opinions about it.

SECT. II.—*The Communion of Strangers, not the same as Lay-Communion.*

Some confound it altogether with lay-communion, as Binius in his Notes upon the Council of Lerida,^e and Hospinian,^f and the old Gloss upon Gratian^g. But it is no ways probable, that the ancient Church would use two such different names for the same thing, when lay-communion was a word so commonly known among them. Besides that, these two things

^c Ibid. c. ii. *Contumaces clerici ab episcopis corrig(pi)antur: et si qui prioris gradus elati superbia, communionem fortasse contemserint, aut ecclesiam frequentare, vel officium implere neglexerint, peregrina eis communicatio tribuatur: ita ut, quum eos poenitentia correxerit, rescripti in matricula gradum suum dignitatemque suscipiant.*

^d Concil. Ilerd. c. xv. (Labbé, vol. iv. p. 1614. B 12.) *Si quisquam clericus, quacumque occasione, quidpiam probatus fuerit abstulisse, vel forsitan dolo aliquo suppressisse, reus sacrilegii, prolixiori anathemate condemnatur; et vix quoque peregrina ei communicatio animæ concedatur.*

^e Bin. not. in Conc. Ilerd. can. xv. (Labbé, vol. iv. p. 1617. A 14.) *Existimo laicam et peregrinam communionem idem esse, nullumque discrimen inter utramque versari.*

^f Hospinian. *Histor. Sacram. lib. ii. c. i. p. 24. (p. 21, edit. Genev. 1681.) ubi can. v. Concil. Agath., sub (b) jam recitatum, allegat de communione laica: Grischov.*

^g Gloss. in Gratian. causs. xiii. quest. ii. c. xi. *Peregrina, quæ alias dicitur laica.*

were evidently different from one another: for clergymen reduced to lay-communion were totally and perpetually degraded from their orders, and could not ordinarily be restored to their office again, but ever after continued in the state of laymen, as has been evidently demonstrated in the foregoing chapter: whereas clergymen, reduced to the communion of strangers, were still capable of being restored to their office again after the performance of a certain penance; as is expressly said in the fore-mentioned canon of the Council of Agde, can. 2.

SECT. III.—*Nor Communion in one kind.*

Bellarmino^h and others not only take it for lay-communion, but boldly assert, that that lay-communion was communion only in one kind: so that when a clergyman is said to be reduced to lay-communion, it is the same thing, according to them, as being put down to receive the communion among laymen only in one kind. But this is only multiplying of obscurities, and confounding a reader by adding one error to another. For as the ancients speak of lay-communion and the communion of strangers as different things; so they had no such notion of lay-communion, as these writers pretend: for all public communion both of clergy and laity in the primitive Church was in both kinds, as has been evidently demonstrated in a former book,¹ and is now ingenuously confessed by the most learned and accurate writers in the Romish Church. So that this opinion, which confounds the communion of strangers with communion in one kind, is without all shadow of truth, and has not the least foundation in antiquity to support it.

SECT. IV.—*Nor Communion at the hour of Death.*

The author of the Gloss upon Gratian has another pleasant interpretation: for he fancies it may signify communion at

^h Bellarm. de Eucharist. lib. iv. c. xxiv. p. 679. (p. 294, edit. Colon. 1616.) Eadem (laica) communicatio dicitur etiam 'peregrina' in concilio Agathensi c. ii. et v.

¹ Lib. xv. c. v. § i. vol. v. p. 208, seqq.

the hour of death, when a man leaves the world, and departs out of this life, to take a pilgrimage into the next life and world to come.¹ But this is only fit to make an intelligent reader smile. For it is very improper to call death a pilgrimage, which more strictly speaking, according to Scripture-language, is rather a translating of men to their native country, their heaven and their home. Men are said to be 'strangers and pilgrims upon earth,' because they are absent from heaven, the city and country to which they belong: therefore leaving this world cannot be said to be entering upon a pilgrimage, but in propriety rather ending and finishing a pilgrimage; to go to their everlasting home. Therefore, if the ancients spake properly, as no doubt they did, they could not mean by the communion of strangers, the communion of dying persons, or such as were taking a pilgrimage out of this world. Besides that, the very canon of the Council of Agde, which the glosser pretends to explain, makes the communion of strangers not to be the communion of dying persons, but such as are living, and in a capacity to return to officiate as clergymen (after a sufficient correction) in their former station.

SECT. V.—*Nor the Communion of such as were enjoined to go on Pilgrimage on earth by way of Penance, a piece of discipline unknown to the ancients.*

Cardinal Bona mentions^k and exposes another more fanciful opinion of one Gabriel Henao, who, he says, wrote a long dissertation upon this subject; wherein he at last concludes,

ⁱ Gloss. in Grat. ubi supra. Peregrina communio, id est, quum recedit vel peregrinatur de hoc mundo.

^k Bon. de Reb. Liturgic. lib. ii. c. xix. § v. (Antwerp. 1677. p. 603.) Alia est singularis sententia Gabrielis Henao, qui (lib. de Sacrific. Missæ, p. iii. disputat. xxviii. sect. xlix. et sequentibus) diffusissime agens de communione peregrina, eam tandem fuisse concludit, ad quam clerici admittebantur, quibus in poenam alicujus peccati peregrinationes sive perpetuæ, sive ad tempus impositæ erant. Sed quamvis multa dicat, non tamen probat, quæ et qualis fuerit peregrinantium communio. Et hoc deinde ab illo demonstrari oportebat, quod, quando canones de communione peregrina editi sunt, solerent clericis ad expianda peccata peregrinationes injungi. (Aug. Turin. 1753. vol. iii. p. 420.)

that 'the communion of strangers' was that which was given to such clergymen as were enjoined to go on a pilgrimage, either temporary or perpetual, by way of penance for their offences. But he no way explains what kind of communion this was ; and as Bona observes, he ought to have demonstrated, that when the canons about the communion of strangers were made, there was any such punishment as pilgrimages enjoined the clergy for the expiation of their offences. For there is a profound silence in antiquity as to what concerns any such injunction.

SECT. VI. — *Nor any private and peculiar obligation for Strangers.*

Cassander^m and Vossius,ⁿ after some of the schoolmen and canonists, think 'the communion of strangers' means the oblation of the eucharist made after some peculiar rite and on some particular days for the use of strangers ; and that it was put upon delinquent clergymen as a punishment to communicate with these. But there was no such custom as this of making any particular oblation of the eucharist for strangers in the ancient Church : for all travellers and strangers, when they came to a foreign Church, if they brought communicatory or commendatory letters with them, were admitted to communicate with the Church, wherever they happened to sojourn : and if they did not bring communicatory letters, they were denied communion till they should procure them. Meanwhile they were allowed to communicate in external good things, or partake of the charity of the Church, if they were in necessity,

^m Cassand. de communione sub utraque specie, p. 1029. Idem de peregrina communione, cujus in Agathensi synodo mentio fit, censendum puto : intelligi videlicet eam communionem inter peregrinos, seu cum peregrinis. Constat enim ex B. Ambrosio, præter statos dies, quibus incolis bis in hebdomada mysteria celebrabantur, nonnumquam extra ordinem, fere quotidie peregrinis adventantibus, mysteria celebrari et administrari solere.

ⁿ Voss. Thes. Theol. p. 516. (p. 328, ed. Hag. Comit. 1658.) Nec magis pontificios juvat communicatio peregrina : ut qua proprie significetur oblatio, quæ præter statos dies peregrinantium causa fiebat. . . . Hinc peregrina communione communicare dicebantur, qui inter peregrinos communicabant. Eam vero etiam inter clericorum poenas fuisse, clarissime liquet ex canone hoc primo concilii Agathensis : "Contumaces clerici," etc. See note (c) p. 360.

though they were debarred from all religious communion as suspected persons. And by this distinction we shall be able to come at the true meaning of ‘the communion with strangers.’

SECT. VII.—*But communicating only as Strangers travelling without commendatory Letters, who might partake of the Church's Charity, but not of the Communion of the Altar.*

For we are to observe, that communion in the ancient Church signifies not only partaking of the Eucharist, or communion of the altar; but also partaking of the charity of the Church. And such travellers as came to any foreign Church without communicatory letters to testify their orthodoxy and pious conversation, were presumed to be under some censure, and not in actual communion with their own Church: till, therefore, they could clear themselves of this suspicion, by the rules of catholic unity and communion of all Churches mutually with one another, they were to be refused communion in a foreign Church, and only to be allowed common charity as strangers. And according to these measures, clergymen who were delinquents, were for some time treated much after the same manner, and thereupon said to be reduced to ‘the communion of strangers:’ that is, they might neither officiate as clergymen in celebrating the Eucharist, nor any other part of their office; nor in some cases, participate of the Eucharist for some time, till they had made satisfaction; but only be allowed a charitable subsistence out of the revenues of the Church, without any legal claim to a full proportion, till by a just penance they could regain their former office and station. This is the most probable account that can be given of a difficult and doubtful matter: and learned men now generally concur in the substance of this explication; as the reader that is curious may see in the writings of Albaspinæus^o and Bona,^p Schelstrate,^q Prio-

^o Albaspin. Observat. lib. i. c. iii. (Paris. 1623. p. 14.) Communio peregrina nihil aliud est, nisi me fallit opinio, quam communitas et consociatio, quæ presbyteris, sive aliis clericis, qui sine formatis, aut commendatitiis litteris peregrinabantur, indulgebatur in societate clericorum, et communione ecclesiastica. (p. 15.) Ea de causa litteræ formatæ subintroductæ sunt. Inde etiam veteres canones omnem curam et cautionis omne genus adhibent, ut fideles a consortio et societate peccatorum secludantur. Quando igitur episcopus, presbyter, cleri-

rius,^r Petavius,^s Mark Antony de Dominics,^t and Sirmond;^u not to mention the hints and strictures occasionally made

cus peregrinabantur, placuit, ut nullus episcoporum navigaret, sine formata Primatis: item, ut clerici sine formata et conscientia episcopi, per alienas plebes non vagarentur. Tum demum, ut nullus peregrinus sine formata episcopi acciperetur, super quibus litteris episcopi, ad quos facilis aditus patebat, scribebant peregrinis illac iter fuisse, visisque litteris eorum, a quibus profecti erant, communionem indulsisse: alioqui peregrinus ille non accipiebatur; neque ulli rei ecclesiasticæ aut civili cum clericis diœcesis, qua illi iter erat, communicabat, et quasi excommunicatus habebatur. Verum enim vero quamvis frons, oculi, vultus persepe mentiantur, oratio vero sæpissime, si tamen peregrino litteræ formatæ excidissent, si interceptæ aut alio quovis casu amissæ fuissent, aut episcopus quacumque tandem de causa eas denegavisset; vel si qua tandem suspicio subesset; non omnino rejiciebatur, quia dubitatio oboriebatur, num vera essent, quæ allegaret. Itaque non ea injuria adficiebatur, ut excommunicatis adnumeraretur; sed non tandem ad communionem ecclesiæ admittebatur, ne cum excommunicatis communicare videretur, aut ovis morbosa et tabida, quæ gregem inficeret, in caulam Domini nostri Jesu Christi intraret: sed seorsim sumtibus ecclesiæ in loco semoto alebatur, (p. 16.), ubi orabat, et in eo statu erat, ut laicus non esset, nec tamen communioni ecclesiæ participabat, neque ullis clericis muneribus defungebatur, id videre est in xxxii. canone apostolorum: (Labbé, vol. i. p. 31.) ‘Nemo peregrinorum episcoporum, aut presbyterorum, aut diaconorum, sine commendatiis suscipitor litteris; et si eas obtulerit, attentius in disquisitionem vocantur. Et quidem si prædicatores pietatis fuerint, suscipiuntur; sin minus, ubi necessaria eis suppeditaveritis, ad communionem et ulteriorem ipsos consuetudinem non admittite: multa enim per surreptionem fiunt:’ quo canone, mea quidem sententia, exponitur, quid sit ‘communio peregrina,’ quæ ab initio non erat genus poenæ et animadversionis, sed instituta fuerat, ut clerici, de quorum statu et conditione non constaret, non omnino rejicerentur. Postea vero hoc eodem genere communionis usa est ecclesia, ut clericos non peregrinos in officio contineret; et ita factum est, ut hæc communio genus quoddam poenæ censeretur. (p. 17.) Est locus quidam insignis in vita Sancti Joannis Chrysostomi, qui huic observationi multum lucis adfundere potest: ‘Si placet, inquit, Domine, spiritualis communionis nondum illis consortium trade, ne papam contristes; ceterum in aliis omnia in eos officia humanitatis exerce, id enim tibi episcopo convenit, ita illos excepit Joannes, ad communionem minime admittit.’ Hæc peregrinæ communionis specie, ecclesia punivit non solum clericos peregrinos: sed eos etiam, qui in diœcesi habebant domicilium, quod degradationis, sive suspensionis a muneribus ecclesiæ, et separationis a ceteris clericis genus est, tam in rebus civilibus, quam ecclesiasticis. Hinc patet, ut mea fert opinio, quid fuerit ‘communio peregrina,’ et unde denominationem acceperit.

P Bon. de Reb. Liturgic. lib. ii. c. xix. n. vi. (Aug. Turin. 1753. vol. iii. p. 421.) Sirmondus (in Histor. publicæ Pœnitentiæ, cap. ult.) et Alaspinaeus, (lib. i. Observat.) tunc peregrina communione mulctatos fuisse clericos crediderunt, quando in eo loco et statu collocabantur, quo poni solebant clerici peregrini, qui sine litteris commendatiis, quas *Formatas* vocabant, extra propriam

about it by Lindanus,^x Baronius,^y and Peter de Marca,^z all writers of the Romish communion ; whom I the rather name

diœcesim peregrinabantur. Excipi enim benigne consueverant et sumtibus ecclesiæ ali, nullo prætermisso humanitatis officio : nemo tamen clericorum cum illis, tamquam cum clericis, communicabat, nec ullis sui ordinis muneribus fungebantur. . . . Hoc autem advenis nulla erat pœna, sed sic ferebat usus ecclesiæ, ut clerici vagantes sine Formatis ad suorum ordinum exercitia in aliena diœcesi non admitterentur : quæ cautio etiam hodie adhibetur, ut ignoti et extranei sacerdotes non permittantur celebrare, nisi litteras suæ ordinationis ostendant tametsi in reliquis omnia illis officia Christianæ caritatis impendantur. Quum vero clerici alicui ecclesiæ adscripti functiones sui ordinis exercere prohibebantur, id sane pœna erat in hoc sita, quod licet peregrini non essent, certumque domicilium et gradum in propria civitate et ecclesia obtinerent ; sic tamen cum eis agebatur, ac si peregrini forent, de quorum statu et conditione non constaret. Quumque sui ordinis exercitio carerent, non tamen abstinenti erant a perceptione eucharistiæ, quæ nec peregrinis quidem et ignotis negabatur, quum se vere orthodoxos esse docuissent.

^q Schelstrat. not. in Conc. Antioch. p. 397. Dissentire non possum ab illis, quæ recte animadvertit Philippus Priorius in ‘Dissertat. de Litteris Canonicis,’ titul. xi. “Litteræ canonicæ ideo concedebantur,” etc. vid. sub litt. seq. (r). Ex hisce jam spes adfulget exponendi canones Agathensis ii. et v. concilii de communionem peregrina tractantes. . . . Sunt, qui peregrinam communionem interpretati sunt de communionem sub unica specie, sed nullatenus verisimile videtur, illam pro tam gravi et enormi crimine in pœnam infligi, quum tamen canones et Ilerdenses citati communionem peregrinam imposuerint in pœnam, unde rectius Gabriel Albaspineus, doctissimus Aurelianensium antistes, (libro i. Observat. iii.) ‘Communio peregrina,’ etc. See note (o) p. 364.

^r Prior. de Litteris Canon. titul. xi. p. 38. Litteræ canonicæ ideo concedebantur, ut peregrinantes sublevarentur harum beneficio, quod communionis Christianæ, sive etiam communicationis nomine insigneiebatur. Atque in eo sita erat illa communio, ut religionis societate fruerentur et mysteriorum consortio, modo adessent ejusmodi litteræ ex antiquorum canonum decretis conscriptæ. Qui autem hac ope destitutus ad iter se accingebat, a fratribus quidem humaniter accipiebatur, ei tamen communionis tantum peregrinæ jure frui licebat, id est, quod ad naturæ jura pertinet, ad omne genus solatii, ad ea, quæ ad vitam erant necessaria, benigne et comiter agebatur cum peregrinis ; in iis vero, quæ sacramentorum erant, ea severitate procedebant, ut absque litteris penitus sacrorum communio denegaretur. Erant enim tunc quasi suspecti ; nec satis apparebat, an vere essent Christiani ; aut dubium erat, ne criminis aut sceleris cujuspiam rei essent. Nihil evidentius in hanc rem adferri potest, quam id, quod habet Synesius epistola lxvi. de Alexandro episcopo. . . . Scribit igitur Synesius : ‘Nosti igitur, venerande pater, quomodo me gessi : in ecclesiam eum non admisi, neque sacræ mensæ participem feci ; domi tamen eundem honorem largitus sum, qui insontibus impendi solet.’

^s Petav. Not. in Synesii Epist. lxvii. p. 78. Peregrina communio qualem Regensis concilii canon ille significat, non ex eo more dicta derivataque videtur, quo peregrini clerici, qui sine formatis litteris advenirent ; ac de quorum statu,

upon this account, to expose more fully the vanity of Bellarmine and his adherents, who with a great deal of confidence would persuade the world, that they had discovered the lay-communion of their Church under one species, as they call it, in this ancient 'communion of strangers,' when yet they differ as much almost as any two things from one another. Among Protestant writers, the true notion is well expressed by Dr. Sherlock,* when he observes, "That the ancient discipline was very severe in admitting strangers, who were unknown to them, to the communion; lest they should admit heretics, or

vel juris integritate dubitari poterat, ab episcopis tractabantur: sed inde potius, quod in aliena ecclesia peregrini episcopi, vel clerici nullum ministerii ac functionis ordini suo consentaneæ obeundæ jus habeant. Tametsi ab earum civitatum, in quibus peregrinabantur, episcopis adhiberentur ad illa præstanda. Sed ex eo præcise, quod suis locis egressi, usu ordinis sui careant; inde peregrina communio, quæ quidem pœnalis fuit, appellata videtur, qua similiter ac peregrini, in civitatibus suis jus nullum haberent ordinis exercendi.

^t Marc. Anton. de Dominis de communione peregrina.

^u Sirmond. *Hist. Pœnitent.* cap. ultim. (tom. iv. Opp. p. 511, edit. Paris. 1696.) De clericis agi (in canone ii. Agathensi) liquet, qui unum in corpus allecti sunt, unaque in matricula conscripti, divino cultui una deserviunt. Quorum si qui ab officio per contumaciam discesserint, synodi decreto ex matricula expuncti, graduque summoti, peregrinorum in ordinem rediguntur, ut peregrina cum iis communione contenti sint. Sic tamen, ut, quando resipiscant, locum suum recipiant, matriculæque et corpori, a quo segregati sunt, restituantur, etc.

^x Lindan. *Panopl.* lib. iv. c. lviii. Laica communio non fuit unius speciei, uti hodie videmus usitatum ex antiquissima simul et laudatissima Occidentis consuetudine, sed cum laicis communio. Erat enim clericorum excommunicatorum propria: quippe nondum erant sicut nec sui gradus redditione atque dignitatis restitutione digni: ita nec clericorum communione, verum ad laicorum societatem adjungebantur interea, dum sacris expiationibus atque saluberrimæ pœnitentiæ castigationibus ad amissæ cum clero dignitatis recuperationem (si ea modo contingeret) præparabantur.

^y Baron. an. 400. (p. 121, edit. Antverp. 1658.) (Antverp. 1602. vol. v. p. 119. E 4.) Peregrina tantum communione eos a Joanne Chrysostomo dignatos esse, qua sacrarum precum communicatio impartitur, non autem usus sacramentorum, Sozomenus tradit. . . . Vigebat namque illa vetus in ecclesia consuetudo, ut peregrini advenientes, seque Christianos esse profitentes, ad communes tantum ecclesiæ preces admitterentur; tunc vero et sacramenta illis impertirentur, quum se esse catholicos, fide certa docuissent.

^z Marca, *Dissert. in cap. Clericus, ad calcem Baluzii de Emendatione Gratiani*, p. 583. (p. 369, edit. Paris. 1681.) cit. supr. ad cap. ii. § i. litt. (d) p. 346.

^a Of Church Unity, in defence of Stillingfleet, p. 602.

schismatics, or excommunicated persons: and therefore if any such came, who could not produce their recommendatory letters, but pretended to have lost them by the way, they were neither admitted to communion, nor wholly refused; but, if occasion were, maintained by the Church, till such letters could be procured from the Church from whence they came; which was called the ‘Communio Peregrina.’

SECT. VIII.—*This notion confirmed from several parts of ancient History.*

This notion seems the more agreeable, because it comes recommended and confirmed by several facts in ancient history. Synesius writing to Theophilus, bishop of Alexandria, concerning one Alexander, bishop of Basinopolis, in Bithynia, who lay under some suspicion at Ptolemais, tells him, ‘he neither received him in the Church, nor communicated^b with him at the holy table, but in his own house he treated him as an innocent person.’ And thus the historians tell us^c Chrysostom treated the Egyptian monks, who being prosecuted by Theophilus, bishop of Alexandria, fled to Constantinople, to have a fair hearing of their cause before the emperor. He entertained them hospitably, and allowed them to join in the common prayers with the Church; but would not admit them to participate of the Eucharist, whilst their cause was depending and undetermined. From which it is evident, that strangers, travelling without recommendatory letters, might be allowed some common offices of Christian charity; but could not be admitted to Christian communion. And so it was determined expressly in the Apostolical Canons,^d that if any strange bishops,

^b Synes. Epist. lxvi. ad Theophilum. ‘Ἐκκλησίᾳ μὲν οὐκ ἐδεξάμην αὐτὸν, οὐδὲ τραπέζας ἱερᾶς ἐκοινωνήσα· οἱκοὶ δὲ ἴσα καὶ τοῖς ἀναίτιοις ἐτίμησα.

^c Socrat. lib. vi. c. ix. (Vales. 1700. p. 257. B 8.) ‘Ἐν τιμῇ μὲν ἤγε τοὺς ἄνδρας, καὶ τῶν εὐχῶν μετέχειν οὐκ ἐκώλυσε· κοινωνίαν δὲ τῶν μυστηρίων οὐκ ἔφη πρὸ διαγνώσεως μεταδῶσθαι αὐτοῖς.—Sozomen. lib. viii. c. xiii. (p. 626. C.) ‘Ὁ δὲ [Ἰωάννης] προσελθόντας αὐτῷ τοὺς ἄνδρας φιλοφρόνως ἐδέξατο, καὶ ἐν τιμῇ εἶχε, καὶ εὐχεσθαι ἐπὶ ἐκκλησίας οὐ διεκώλυσε. κοινωνεῖν δὲ μυστηρίων αὐτοῖς οὐχ ἡγήσατο, ὥς οὐ θεμιτὸν πρὸ διαγνώσεως τοῦτο ποιεῖν.

^d Can. Apost. xxxiv. (Labbe, xxxii. vol. i. p. 32.) Μηδένα τῶν ξένων ἐπισκόπων

presbyters, or deacons, travelled without commendatory letters, they should neither be allowed to preach, nor be received to communion, but only have τὰ πρὸς τὰς χρείας, what was necessary to answer their present wants, that is, a charitable subsistence. In the first Council of Carthage likewise a rule was made,* that neither clergyman nor layman should communicate in a strange Church without the letters of their bishop, for fear of surreptitious communion. And in every council almost there is a canon to the same purpose. So that according to the treatment of strangers, whether clergymen or laymen, in a strange Church; such was the discipline exercised upon delinquent clergymen in their own Church: they were suspended from their office and communion, but allowed a necessary subsistence, which was properly the 'Communio Peregrina,' or reducing them to the communion of strangers.

SECT. IX.—*What sort of Penance was necessary to restore such delinquent Clergymen to their office and station again.*

There remains but one difficulty now to be accounted for in this matter; which is, what sort of penance that was which the Church required of such delinquent clergymen, in order to restore them to their office and station again. That they might be restored by penance, is evident from the forementioned canon of the Council of Agde,^f which allows it; and in this the

ἡ πρεσβυτέρων, ἡ διακόνων, ἄνευ συστατικῶν γραμμάτων προσδέχσθε· καὶ ἐπιφερομένων δὲ αὐτῶν, ἀνακρινέσθωσαν· καὶ ἰδὼν μὲν ὡς κήρυκες τῆς εὐσεβείας, προσδέχσθωσαν· εἰ δὲ μήγε, τὰ πρὸς τὰς χρείας αὐτοῖς ἐπιχορηγήσαντες, εἰς κοινωνίαν αὐτοὺς μὴ προσδέξῃθε· πολλὰ γὰρ καὶ κατὰ συνάρπαγην γίνονται.

* Concil. Carth. I. can. vii. (Labbé, vol. ii. p. 616.) Clericus vel laicus non communicet in aliena plebe, sine litteris episcopi sui. Nisi hoc observatum fuerit, communio fiet passiva [for, passim].—Vide Concil. Antioch. c. vii. (Labbé, vol. ii. p. 564.) Μηδένα ἀνευ εἰρηνικῶν δέχεσθαι τῶν ξένων.—Concil. Laodic. c. xli. (Labbé, vol. i. p. 1504.) "Ὅτι οὐ δεῖ ἱερατικὸν ἢ κληρικὸν ἀνευ κανονικῶν γραμμάτων δδεύειν.—Concil. Milevit. c. xx. (Labbé, vol. ii. p. 1542.) Placuit, ut quicumque clericus, propter necessitatem suam alicubi ad comitatum ire voluerit, formatam ab episcopo accipiat.—Conc. Agath. c. lii. (Labbé, vol. iv. p. 1392.) Presbytero, aut diacono, vel clerico, sine antistitis sui epistolis ambulanti, communionem nullus impendat. In Conc. Epao. c. vi. idem canon iisdem verbis legitur.

^f Concil. Agath. can. ii. vide sub litt. (c) p. 360. (Labbé, vol. iv. p. 1383.)

communion of strangers chiefly differed from the communion of laymen, that the one allowed a delinquent clergyman to be restored to his office, and the other ordinarily did not: but then there arises a difficulty from other canons, which both forbid ^s any one to be ordained who had done public penance whilst he was a layman; and also prohibit clergymen, who were reduced to public penance, ever to recover their ancient ^b dignity and station again. Concerning both which points of discipline, besides the canons, St. Austin is an irrefragable witness in reference to practice: for he testifies,¹ that this was the order of the Church, that no one who had done penance for any crime, should be admitted to any clerical degree, or

^s Concil. Nic. can. x. (Labbé, vol. ii. p. 33.) "Ὅσοι προεχειρίσθησαν τῶν παραπεπτωκότων κατὰ ἄγνοιαν, ἢ καὶ προειδόντων τῶν προχειρισμένων, τοῦτο οὐ προκρίνει τῷ κανόνι τῷ ἐκκλησιαστικῷ· γνωσθέντες γὰρ καθαιροῦνται.—Conc. Carth. IV. c. lxviii. (Labbé, vol. ii. p. 1205.) Ex poenitentibus (quamvis sit bonus) clericus non ordinetur. Si per ignorantiam episcopi factum fuerit, deponatur a clero, quia se ordinationis tempore non prodidit fuisse poenitentem. Si autem sciens episcopus ordinaverit talem, etiam ab episcopatus sui, ordinandi duntaxat, potestate privetur.—Concil. Tolet. I. c. ii. (Labbé, vol. ii. p. 1223.) Placuit, ut de poenitente non admittatur ad clerum, nisi tantum si necessitas autusus exegerit inter ostiarios deputetur, vel inter lectores.—Conc. Agath. c. xliii. (Labbé, vol. iv. p. 1390.) De poenitentibus id placuit observare, quod sancti patres nostri synodali sententia censuerunt, ut nullus de his clericus ordinetur, et qui jam sunt per ignorantiam ordinati, ut sicut bigami, aut inter-nuptarum mariti, locum teneant, ministrare diaconus, aut consecrare altare hujusmodi presbyter non præsumat.—Concil. Epaon. c. iii. (Labbé, vol. iv. p. 1576.) Poenitentiam professi ad clericatum penitus non vocentur.

^b Conc. Carth. V. c. xi. (Labbé, vol. ii. p. 1217.) Confirmatum est, ut si quando presbyteri vel diaconi in aliqua graviore culpa convicti fuerint, qua eos a ministerio necesse fuerit removeri, non eis manus, tamquam poenitentibus, vel tamquam fidelibus laicis, imponatur, neque umquam permittendum, ut rebaptizati ad clericatus gradum promoveantur.—Leo Epist. xcii. ad Rustic. c. ii. (tom. iii. Concil. p. 1406.) Alienum est a consuetudine ecclesiastica, ut qui in presbyteriali honore, aut in diaconi gradu fuerint consecrati, hi pro crimine aliquo suo per manus impositionem remedium accipiant poenitendi: quod sine dubio ex apostolica traditione descendit, secundum quod scriptum est: 'Sacerdos si peccaverit, quis orabit pro eo?' Unde hujusmodi lapsis ad promer(ov)endam misericordiam Dei privata est expetenda secessio, ubi illis satisfactio, si fuerit digna, sit etiam fructuosa.

¹ Augustin. Ep. l. ad Bonifac. p. 87. (tom. ii. Opp. p. 227, edit. Basil. 1569.) (Antwerp. 1700. vol. ii. p. 503. A 9.) Ut constitueretur in ecclesia, ne quisquam post alicujus criminis poenitentiam clericatum accipiat, vel ad clericatum redeat, vel in clericatu maneat, non desperatione indulgentiæ, sed rigore factum est disciplinæ.

return to it after correction, or continue in it: which was done, not to make any one despair of pardon, but only to comply with the strict discipline of the Church. How then can it be said that the communion of strangers allowed clergymen to recover their office and dignity by doing penance, when these canons for doing penance so plainly took it from them? To this it is easily answered by distinguishing between public and private penance: the canons which forbid clergymen to be restored to their office after having done penance, speak of public penance done solemnly in the Church; but the other canons, which allow them to be restored, speak of private penance only. And that this is no arbitrary distinction, but of the Church's own making, is evident from the canons themselves. For the Council of Gironne allows^k such as have done private penance in time of sickness, and received absolution upon it, afterwards to be ordained, provided they never were brought to do public penance in the Church, and there was no other objection of immorality to be made against them. In like manner Gennadius, recounting the several things that hindered a man from being ordained, reckons his having done public penance^l a sufficient objection against him; but as for private penance, he takes no notice of it. Therefore by this rule we are to interpret all the canons which forbid penitents to be ordained at first, or deny clergymen after penance the liberty of regaining their ancient station: they are to be understood of public penance, and not of private. And so this seeming difficulty and contradiction of the canons is easily adjusted, whilst the Council of Agde, which allows clergymen, reduced to the communion of strangers, liberty of resuming their office again after penance, must necessarily be interpreted of private penance, and not of public. And this makes

^k Concil. Gerund. c. ix. (Labbé, vol. iv. p. 1569.) Qui ægritudinis languore depressus, poenitentiae benedictionem (quam viaticum deputamus) per communionem acceperit, et postmodum reconvalescens caput poenitentiae in ecclesia publicae non subdidit; si prohibitis vitiis non detinetur obnoxius, admittatur ad clerum.

^l Gennad. de Eccles. dogmat. c. lxxii. Clericum non ordinandum, qui publica poenitentia mortalia crimina deflet. Vid. Conc. Tolet. I. c. ii. (Labbé, vol. ii. p. 1223.) Poenitente dicimus de eo, qui, publicam poenitentiam gerens, sub cilicio, divino fuerit reconciliatus altario.

it evident, that this reducing of clergymen to the communion of strangers was only a temporary suspension of them from their office, and not a total degradation, or reduction of them to the state and quality of laymen.

CHAPTER IV.

OF SOME OTHER SPECIAL AND PECULIAR WAYS OF INFLICTING PUNISHMENT ON THE CLERGY.

SECT. I.—*Sometimes the Clergy perpetually suspended from their Office, yet allowed to retain their Title and Dignity.*

BESIDES these more general and usual ways of punishing the offending clergy, there were also some less noted and uncommon ways of censuring them, which it will not be amiss to observe, whilst we are upon this subject. Among these we may reckon that sort of suspension, which deprived them entirely of the exercise of their office, and yet allowed them to retain their title and dignity. This was a sort of middle way between a temporary suspension and a perpetual degradation: for they were still allowed to communicate among the clergy, and not entirely reduced to the communion of laymen. Thus in the Council of Ancyra,^a those presbyters who had sacrificed to idols, but afterwards returned and became confessors, were allowed to keep their dignity and title of presbyters, and sit among the rest in the presbytery; but not to preach, or offer the Eucharist, or perform any other office of the sacred function. The same is decreed^b concerning deacons lapsing

^a Concil. Ancy. can. i. (Labbé, vol. i. p. 1456.) Πρεσβυτέρους τοὺς ἐπιθύσαντας, εἴτα ἐπαναπαλαίσαντας, μήτε ἐκ μεθόδου τινὸς, ἀλλ' ἐξ ἀληθείας, μήτε προκατασκευάσαντας καὶ ἐπιτηδεύσαντας καὶ πείσαντας, ἵνα δόξωσι μὲν βασάνοις ὑποβάλλεσθαι, ταύτας δὲ τῷ δοκεῖν καὶ τῷ σχήματι προσαχθῆναι· τοὺτους ἔδοξε τῆς μὲν τιμῆς τῆς κατὰ τὴν καθέδραν μετέχειν, προσφέρειν δὲ αὐτοὺς, ἢ ὁμιλεῖν, ἢ ὅλως λειτουργεῖν τι τῶν ἱερατικῶν λειτουργιῶν, μὴ εἶναι.

^b Ibid. can. ii. (Labbé, vol. i. p. 1456.) Διακόνους ὁμοίως θύσαντας, μετὰ

into idolatry; that they might retain their honour, but cease from all administration of the sacred office, neither distribute the bread nor the cup, nor minister as the common præco's or cryers of the Church, unless the bishop, in consideration of their great pains, humility, or meekness, thought fit to allow them more or less of their office, which was left entirely to his discretion. The Council of Nice made a like decree^c concerning the Novatian bishops, whom they degraded to the order of presbyters, but yet permitted them to retain the title of bishops, if the bishop of the place thought fit to allow it. And the same was determined in the case of Meletius by the same synod,^d that he might retain the bare name and honour of a bishop, but never after officiate in his own church, or any other. So in the canons of St. Basil,^e a delinquent presbyter is allowed to sit among the rest, but obliged to abstain from all offices belonging to his order. And an offending deacon^f is suspended from his ministry, but yet allowed to partake of the holy elements among the other deacons. The Council of Agde^g has a like decree about presbyters and

δὲ ταῦτα ἀναπαλαίσαντας, τὴν μὲν ἄλλην τιμὴν ἔχειν, πεπαῦσθαι δὲ αὐτοὺς πάσης τῆς ἱερᾶς λειτουργίας, τῆς τε τοῦ ἄρτον ἢ ποτήριον ἀναφέρειν, ἢ κηρῶσιν· εἰ μὲν τοι τινὲς τῶν ἐπισκόπων τούτοις συνίδουεν κάματόν τινα ἢ ταπεινωσιν πρῶτότης, καὶ ἐθέλουεν πλεῖον τι δίδοναι ἢ ἀφαιρεῖν, ἐπ' αὐτοῖς εἶναι τὴν ἐξουσίαν.

^c Concil. Nicæn. c. viii. (Labbé, vol. ii. p. 33. B.) 'Ο δὲ ὀνομαζόμενος παρὰ τοῖς λεγομένοις Καθαροῖς ἐπίσκοπος, τὴν τοῦ πρεσβυτέρου τιμὴν ἔξει· πλὴν εἰ μὴ ἄρα δοκοῖη τῷ ἐπισκόπῳ τῆς τιμῆς τοῦ ὀνόματος αὐτὸν μετέχειν.

^d Conc. Nic. Epist. Synod. ap. Theodoret. lib. i. c. ix. (Vales. 1695. p. 30, at bottom.) Κατὰ γὰρ τὸν ἀκριβῆ λόγον, οὐδὲ μᾶς συγγνώμης ἄξιος ἦν· μένειν ἐν τῇ πόλει ἑαυτοῦ, καὶ μηδεμίαν ἐξουσίαν ἔχειν, μήτε προσχειρίζεσθαι, μήτε χειροθετεῖν, μήτε ἐν χώρᾳ ἢ πόλει τινὶ φαίνεσθαι ταύτης τῆς προθέσεως ἕνεκεν, ψιλὸν δὲ τὸ ὄνομα τῆς τιμῆς κεκτῆσθαι. Vide Socrat. lib. i. c. ix. ubi eadem habentur. —Sozom. lib. i. c. xxiv. (Vales. 1700. p. 357.) 'Ἐξετασθέντων δὲ καὶ τῶν κατὰ Μελίτιον ἀνὰ τὴν Αἴγυπτον συμβάντων, κατεδίκασεν αὐτὸν ἡ σύνοδος ἐν τῇ Λυκῷ διατρίβειν, ψιλὸν ὄνομα ἐπισκοπῆς ἔχοντα· τοῦ δὲ λοιποῦ, μήτε ἐν πόλει, μήτε ἐν κώμῃ χειροτονεῖν.

^e Basil. can. xxvii. (Labbé, vol. ii. p. 1757.) Περὶ τοῦ πρεσβυτέρου τοῦ κατ' ἄγνοιαν ἀθέσμῳ γάμῳ περιπαρέντος ὥρισα ἃ ἔχρησ, καθέδρας μὲν μετέχειν, τῶν δὲ λοιπῶν ἐνεργειῶν ἀπέχεσθαι.

^f Ibid. c. lxx. (Labbé, vol. ii. p. 1752.) Διάκονος ἐν χεῖλεσι μιανθεὶς, καὶ μέχρι τούτου ἡμαρτηκέναι ὁμολογήσας, τῆς λειτουργίας ἐπισχεσθήσεται.

^g Conc. Agath. c. i. (Labbé, vol. iv. p. 1383.) Placuit de digamis, aut interruptarum maritis, quamquam aliud patrum statuta decreverint, ut qui huc

deacons, who were digamists, or had married the relict of some other man; that though some former rules of the fathers had ordered them to be more severely handled, yet such respect and tenderness should be showed to those who were already ordained, that they might retain the name of presbyters and deacons: but the presbyters should neither presume to consecrate, nor the deacons to minister in the Church. A like determination was made by the general Council of Ephesus^h in the case of one Eustathius, metropolitan of Pamphylia; who, for the love of a private life, and some troubles that he met with in his office, voluntarily relinquished and deserted his bishoprick against canon, but afterward petitioned the council, that he might enjoy the name and honour of a bishop still: in which request the council gratified him, out of regard to his age and quiet temper; allowing him to have both the name and honour and communion of a bishop, but with this condition, that he should neither ordain, nor take any church to officiate in as a priest by his own authority, unless he was admitted as a co-adjutor, or expressly allowed by the bishop of the place.

SECT. II.—*Sometimes degraded, not totally, but partially, from one Order to another.*

It appears from one of the forementioned canons,ⁱ that there was such a punishment also as a partial degradation; which was, when the clergy were not totally deprived of all clerical degree and office, but only thrust down from an higher order to a lower by way of discipline and correction. Thus the Council of Nice treated the Novatian schismatics; admitting

usque ordinati sunt, habita miseratione, presbyterii vel diaconatus nomen tantum obtineant: officium vero presbyteri consecrandi, vel ministrandi hujusmodi diacones non præsumant.

^h Concil. Ephes. Epist. Synod. ad Synod. Pamphyl. (Labbé, vol. iii. p. 307. D 11.) Ἐδικαιώσαμεν καὶ ὤρισamen διχα πάσης ἀντιλογίας ἔχειν αὐτὸν τό τε τῆς ἐπισκοπῆς ὄνομα, καὶ τὴν τιμὴν, καὶ τὴν κοινωνίαν. οὕτω μέντοι, ὥστε μὴ χειροτονεῖν αὐτὸν, μήτε μὴν ἐκκλησίαν καταλαμβάνοντα ἱερουργεῖν ἐξ ἰδίας αὐθεντίας· ἀλλ' ἡ ἄρα συμπαραλαμβανόμενον, εἰπὺν ἐπιτρεπόμενον, εἰ τύχοι, παρὰ ἀδελφοῦ καὶ συνεπισκόπου, κατὰ διάθεσιν καὶ ἀγάπην τὴν ἐν Χριστῷ.

ⁱ Conc. Nic. c. viii. vide litt. (c).

those who had passed for bishops among them, to officiate only as presbyters in the Catholic Church, unless any bishops would promote them to the office of a 'Chorepiscopus' under their jurisdiction. And so the Council of Neocæsarea^k orders deacons that sin, to be thrust down and degraded to the order of sub-deacons. And by this rule it was, as Valesius^l observes out of St. Jerom's Chronicon, that Cyril of Jerusalem degraded Heraclius from the order of a bishop to that of presbyter. But the Council of Chalcedon seems not to have approved of this rule: for in one of her canons, it is said "to be sacrilege^m to bring down a bishop to the degree of a presbyter: and that therefore if there be any just cause to remove a bishop from the exercise of his episcopal function, he ought not to hold the place of a presbyter neither." By which we may conclude, that this point of discipline varied according to the different apprehensions and sentiments of men in different ages.

SECT. III.—*Sometimes deprived of a part of their Office, but allowed to exercise the rest.*

Sometimes again they were deprived of their office as to some particular act of it, but allowed to exercise the rest. Thus the Council of Neocæsarea orders, that "if any presbyter confessed that he had been guilty of any corporal uncleanness

^k 'Ομοίως καὶ διάκονος ἐὰν ἐν τῷ αὐτῷ ἁμαρτήματι περιπέσῃ, τὴν τοῦ ὑπηρέτου τάξιν ἔχέτω. (vol. i. p. 1483.)—Vide Concil. Tolet. I. c. iv. (Labbé, vol. ii. p. 1224.) Subdiaconus, defuncta uxore, si aliam duxerit, ab officio in quo ordinatus fuerat, removeatur, et habeatur inter ostiarios, vel inter lectores, ita ut evangelium et apostolum [epistolam] non legat.—Concil. Trull. c. xx. (Labbé, vol. vi. p. 1151.) Μὴ ἐξίστω ἐπισκόπῳ εἰς ἐτέραν τὴν μὴ αὐτῷ προσήκουσαν πόλιν δημοσίᾳ διδάσκειν· εἰ δὲ τις φωραθῇ τοῦτο ποιῶν, τῆς ἐπισκοπῆς παύσθω, τὰ δὲ τοῦ πρεσβυτέρου ἐνεργείτω.

^l Vales. Not. in Sozom. lib. iv. c. xxx. (Amstel. 1700. p. 101.) 'Ηράκλειος] Hunc Heraclium Maximus moriens sibi successorem designaverat. Verum Cyrillus, Arianorum factione ad episcopatum promotus, eum, variis fraudibus appetitum, ex episcopo in presbyteri locum regredavit, ut scribit Hieronymus in Chronico.

^m Concil. Chalcedon. c. xxix. (Labbé, vol. iv. p. 770.) 'Επίσκοπον εἰς πρεσβυτέρου βαθμὸν φέρειν, ἱεροσουλία ἐστίν· εἰ δὲ αἰτία τις δίκαια ἐκείνους ἀπὸ τῆς πράξεως τῆς ἐπισκοπῆς ἀποκινεῖ, οὐδὲ πρεσβυτέρου τόπον κατέχειν ὀφείλουσιν.

before his ordination, he should not^a consecrate the Eucharist, but might continue in the exercise of all other parts of his office, if he was a man diligent in his function." And in the fourth Council of Carthage it was decreed, "that if a bishop ordained^o any one wittingly who had done public penance, (the ordination of which was prohibited by the canons,) he should for his transgression be deprived of his episcopal power, as to what concerned the particular act of ordaining only;" which implies, that he was still allowed to exercise all other parts of his office and function.

SECT. IV.—*Sometimes deprived of their power over a part of their flock, but allowed it over the rest.*

In Africk we sometimes find bishops, for their mal-administration and indiscreet government, deprived of their power over some part of their flock, and yet allowed still to govern the rest. This may be collected from St. Austin's account of their proceeding with one Antonius, a young bishop, who had oppressed some of his people at Fussala by unreasonable exactions; for which it was thought fit to punish him with this gentle correction, that he should no longer rule over^p that part of his people whom he had so oppressed, lest their grief and impatience should break out into some violent attempts that might be dangerous to both parties. Antonius indeed complained of this as an infringement of his just rights and powers; for he pleaded, that a bishop ought either to be deposed, or to be left in the full exercise of his jurisdiction

^a Conc. Neocæsar. can. ix. (Labbé, vol. ii. p. 1481.) Πρεσβύτερος, ἐὰν προμαρτηκῶς σώματι προαχθῇ, καὶ ὁμολογήσῃ, ὅτι ἤμαρτε πρὸ τῆς χειροτονίας, μὴ προσφέρτω, μένων ἐν τοῖς λοιποῖς, διὰ τὴν ἄλλην σπουδὴν.

^o Conc. Carth. IV. c. lxviii. (Labbé, vol. ii. p. 1205.) - Si sciens episcopus ordinaverit talem, etiam ipse ab episcopatus sui, ordinandi duntaxat, potestate privetur.

^p Augustin. Epist. cclxi. (Bened. 1700. vol. ii. p. 592. C 3.) Sententias nostras sic temperavimus, ut salvo episcopatu, non tamen omnino impunita relinquerentur, quæ non deberent vel eidem ipsi deinceps iterumque facienda, vel ceteris imitanda proponi. Honorem itaque integrum servavimus juveni corrigendo: sed corripiendo minuius potestatem, ne scilicet eis præesset ulterius, cum quibus sic egerat, ut dolore justo eum sibi præesse ferre omnino non possent, et, cum suo illiusque periculo, in aliquod scelus forsitan erupturam impatentiam sui doloris ostenderent.

and power. But St. Austin shows, that this was no new thing in Africk, nor unreasonable in itself; for a bishop may be guilty of many misdemeanours, for which it will neither be proper to let him go wholly unpunished, nor yet to use such severity as to deprive him universally of his episcopal honour and power. In such cases the middle way proves the most useful correction; neither to use too great severity above the nature of the offence; nor too much lenity and mildness, to let it pass entirely without any censure or correction. And he shows, that this was a method often taken in Africk for less faults in other instances of punishment.

SECT. V.—*Bishops in Africk punished by depriving them of their Seniority and right of succeeding to the Primacy or metropolitical power.*

Particularly in Africk (where the primacy of metropolitans always went by seniority of ordination, so that the oldest bishop always regularly succeeded to the primacy of course, whatever diocese he was possessed of) it was customary to punish an offending bishop with the loss of his seniority and right to the primacy, by rendering him incapable of ever attaining it. This we learn from St. Austin in the same epistle,^q where he gives an instance in one Priscus, of the province of Mauritania Cæsariensis, who was thus censured. And if Antonius's argument had been good, Priscus might have pleaded the same, that he ought either to have been allowed his right of succeeding to the primacy, or to have been deprived of his bishoprick: but the African discipline took the middle way, for certain crimes, neither to deprive bishops of their episcopal power, nor to let them go wholly unpunished.

SECT. VI.—*Also by confining them to the Communion of their own Church.*

Another instance of this discipline was, to confine an offending bishop to the communion of his own Church, and prohibit all other bishops from admitting him to communion in any of

^q August. *ibid.* p. 593. A 2. Clamet Priscus provinciae Cæsariensis episcopus, Aut ad primum, etc.

their churches. St. Austin mentions one Victor^r who was thus censured; and he might have pleaded after the same manner, "Either I ought to communicate in all Churches, or not communicate in my own." But this was thought a reasonable way of discountenancing an offending bishop for some smaller faults, when they did not think them worthy of the highest censure: as in case a bishop neglected to come to the provincial synod at the primate's call, or ordained another man's clerk without his license or approbation; which are some of the offences specified in the African synods,¹ for which a bishop might incur this censure.

SECT. VII.—*Or removing them from a greater Diocese to a less.*

St. Austin gives a third instance of this discipline in the African Church: which was the removing of a negligent bishop from a greater diocese to a less; which was a kind of tacit reproach and dishonour to him, and the disgrace was his punishment. For as it was an honour for a bishop to be translated from a less diocese to a greater by the approbation and judgment of a venerable synod (without which they might not move), so it was a dishonour and reproach to him to be thrust down by a synodical decree, though not to a lower order, yet to a lower station. The one was an argument of merit and great worth; and the other, an argument of some demerit and misdemeanor: and therefore the one was used by way of reward, to promote

^r August. *ibid.* Clamet alius ejusdem provinciae Victor episcopus, cui relicto in eadem poena, in qua et Priscus fuit, nusquam nisi in diocesi ejus ab aliquo communicatur episcopo: clamet, inquam, Aut ubique communicare debui, aut etiam in meis locis communicare non debui.

¹ Vide Concil. Carthag. V. c. x. (Labbé, vol. ii. p. 1217.) Placuit, ut quotiescumque congregandum est concilium, episcopi qui neque aetate, neque aegritudine, neque alia graviore necessitate impediuntur, competenter occurrant. . . . Quod si non potuerint occurrere, excusationes suas in tractatoria subscribant: vel si post adventum tractatoriae aliquae necessitates repente forsitan fuerint, nisi rationem impimenti sui apud suum primatem reddiderint, ab ecclesiae suae communione debere esse contentos. — *Ibid.* c. xiii. (p. 1217.) Placuit, ut si quis de alterius monasterio repertum, vel ad clericatum promovere voluerit, vel in suo monasterio majorem monasterii constituere; episcopus qui hoc fecerit, a ceterorum communione sejunctus, suae tantum plebis communione contentus sit: et ille neque clericus, neque praepositus perseveret. Conf. Cod. Afric. can. lxxvi. lxxx. (Labbé, vol. ii. p. 1097.) ubi eadem leguntur.

a bishop for his abilities and good service; and the other by way of punishment, to give a negligent bishop a little gentle admonition and moderate correction. And thus St. Austin tells us, one Laurentius, a bishop, was punished by the discipline * of the African Church.

SECT. VIII.—*The Clergy in general punished by a loss of their Seniority among those of the same Order.*

It was a moderate punishment much of the same nature which the Council of Trullo † mentions as common to all orders of the clergy in general: which was to deprive them of their seniority, and sink them down to the lowest seat or degree among those of the same order. This was commonly the punishment of persons of an ambitious and assuming temper. The council instances in such deacons, as because they had some more honourable ecclesiastical office, would presume to take place of the presbyters, and sit before them; against whom they allege the parable of our Saviour, “When thou art bidden to a wedding, sit not down in the most honourable place, &c., for he that exalteth himself, shall be abased; and he that humbleth himself, shall be exalted.” The author of the Apostolical Constitutions takes notice of the same punishment, as used in his time, even among the laity also. For if

* August. *ibid.* Epist. cclxi. (Bened. 1700. vol. ii. p. 593. A 10.) Clamet tertius ejusdem provincie Laurentius episcopus, et prorsus hujus vocibus clamet, Aut in cathedra, cui ordinatus sum, sedere debui, aut episcopus esse non debui.

† Concil. Trull. c. vii. (Labbe, vol. vi. p. 1143.) Ἐπειδὴ μεμαθήκαμεν, ἐν τισι τῶν ἐκκλησιῶν διακόνους τυγχάνειν ὀφθίκια ἐκκλησιαστικά ἔχοντας, ἐντεῦθεν τινὰς αὐτῶν αὐθαδείᾳ καὶ αὐτονομίᾳ κεκρημένους πρὸ τῶν πρεσβυτέρων καθίζεσθαι· ὀρίζομεν ὥστε τὸν διάκονον, κἂν ἐν ἀξιώματι, τουτέστιν, ὀφθίκῳ οἰσθῇ ποτε ἐκκλησιαστικῷ τυγχάνῃ, τὸν τοιοῦτον μὴ πρὸ τοῦ πρεσβυτέρου καθίζεσθαι, ἐκτὸς εἰ μὴ τὸ πρόσωπον ἐπὶ τῶν τοῦ οἰκείου πατριάρχου, ἢ μητροπολίτου ἐν ἐτέρᾳ πόλει παραγίγνεται ἐπὶ τινι κεφαλαίῳ· τότε γὰρ ὡς τὸν ἐκείνου τόπον ἀναπληρῶν τιμηθήσεται· εἰ δὲ τις τοιοῦτον τολμήσῃ, τυραννικῶς χρώμενος θράσει, διαπράξασθαι, ὃ τοιοῦτος ἐκ τοῦ οἰκείου καταβιβασθεὶς βαθμοῦ ἔσχατος πάντων γινέσθω τοῦ ἐν ᾧ περ καταλέγεται τάγματος ἐν τῇ κατ’ αὐτὸν ἐκκλησίᾳ, τοῦ Κυρίου ἡμῶν παρινοῦντος, Μὴ χαίρειν ταῖς πρωτοκλισίαις, κατὰ τὴν ἐν τῷ ἁγίῳ εὐαγγελιστῇ Λουκᾷ, ὡς ἐξ αὐτοῦ τοῦ Κυρίου ἡμῶν καὶ Θεοῦ κειμένην διδασκαλίαν· ἔλεγε γὰρ πρὸς τοὺς κεκλημένους παραβολὴν ἐπάγων, Ἐὰν κληθῇς, κ. τ. λ.

an honourable person came into the assembly, being a stranger, and any one refused, upon the deacon's admonition, to give him place to sit down; he that so refused, was to be removed by compulsion^u beneath the lowest rank of Hearers in the Church. Cotelarius^w notes the same order as observed among the monks in the rules of Pachomius and St. Benedict for smaller offences. And in the second Council of Nice a like rule was made for the correction of the clergy, that if any one through haughtiness insulted another, he should for his offence^x be thrust down to the lowest degree of his own order, to teach him humility and submission in his station.

SECT. IX.—*And rendering them incapable of being promoted to any higher Order.*

They had also a negative punishment of the same nature for all the inferior orders of the clergy, which was, to deny them all farther promotion, and incapacitate them from attaining to any higher order in the Church. The first Council of Toledo has several canons to this purpose. The first canon orders,^y

^u Constitut. lib. ii. c. lviii. (Labbé, vol. i. p. 298. D 3.) 'Ἐκείνον [ἐνδοξον] καθίσταω δίκαιον δὲ τοῦτο καὶ ἀφ' ἑαυτοῦ τὸν φιλάδελφον ποιῆσαι· ἐὰν δὲ ἀνανεύγῃ, ἐγείρας αὐτὸν ἀναγκαστῶς, ὅπισω πάντων στήσον.

^w Cotelar. in loc. In regula S. Pachomii articulo lxxxv. 'Si quis iracundus et furiosus frequenter irascatur sine causa et propter rem inanem et vacuum; per sex vices commonebitur, et in septima facient eum surgere de ordine sessionis suæ et inter ultimos collocabitur.' Et in regula S. Benedicti c. xliii. 'Quod si quis ad nocturnas vigilias post gloriam psalm. xciv. (quem propter hoc omnino protrahendo et morose volumus dici) occurrerit, non stet in ordine suo in choro, sed omnium ultimus stet, aut in loco, quem talibus negligentibus seorsum constituerit abbas, etc.' Cujus posterioris præcepti vestigia premit caput cxxxi. libri i. synodi Aquisgranensis anno 816 congregatæ. Nec multum dissimilis est alia censura Concilii Trullani can. viii. et Concilii Nicæni II. can. v. per quam clericus ad ultimum gradum ordinis sui amandatur, fitque sociorum omnium ὑποβάθμιος.

^x Concil. Nic. II. c. v. (Labbé, vol. vii. p. 600. C 10.) Τοὺς ἀναιδεῖ προσώπῳ καὶ ἀπερικαλύπτῳ στόματι ὀνειδιστικοῖς λόγοις τοὺς δι' ἀρετὴν βίου ὑπὸ τοῦ ἁγίου Πνεύματος ἐκλεγέντας καὶ καταγέντας ἐκτὸς δόσεως χρυσίου ἀτιμάζοντας, πρῶτον μὲν τοῦτο ποιῶντας τὸν ἕσχατον βαθμὸν λαμβάνειν τοῦ οἰκείου τάγματος· εἰ δὲ ἐπιμένειν, δι' ἐπιτιμίου διορθοῦσθωσαν.

^y Concil. Tolet. I. c. i. Placuit, ut diacones, . . qui incontinenter cum uxoribus suis vixerint, presbyterii honore non cumulentur. Si quis vero ex presbyteris ante interdictum filios [suos] susceperit, de presbyterio ad episcopatum non per[ad]mittatur. (Labbé, vol. ii. p. 1223.)

“that deacons who lived incontinently with their wives, should never arrive to the honour of presbytery, nor presbyters to episcopacy.” This was one of the first steps made toward settling the celibacy of the clergy, which at first was introduced not by disannulling the orders of the married clergy, but by debarring them from being advanced to any higher order. Another canon^a appoints, “that if a reader marries a widow, he shall never be promoted to any higher degree, but always continue a reader, or at most a sub-deacon.” And a third canon of the same council^a decrees, “that if any one after baptism had followed the soldier’s life, though he had never happened to shed blood, if he were ordained to any of the inferior orders, he should never arrive to the dignity of a deacon in the Church.” A like decree was made in the Council of Lerida, “that if any clergyman, who ministered at the altar, shed human blood, though it were the blood of an enemy in the straitness of a siege, he should not only be suspended from his office and communion for two years, but, after he was restored to his office and communion again,^b should remain incapable of being advanced to any higher office in the Church.” And there is another canon in the same council, which orders such clergymen as fall by the frailty of the flesh, after penance, to be received again; yet so as not to expect any^c farther promotion in the Church. The first Council of

^a Ibid. c. iii. (Labbé, vol. ii. p. 1224.) Lector, si viduam alterius uxorem acceperit, amplius nihil sit, sed semper lector habeatur, aut forte subdiaconus.

^a Ibid. c. viii. (p. 1224.) Si quis post baptismum militaverit, et chlamydem sumserit, aut cingulum [ad necandos fideles,] etiamsi graviora non admisit, si ad clerum admissus fuerit, diaconi non accipi-at(x) gradum.

^b Concil. Ilerdens. c. i. (Labbé, vol. iv. p. 1611.) De his clericis, qui in ob-sessionis necessitate positi fuerint, id statutum est, ut, qui altario ministrant, et Christi [corpus et] sanguinem tradunt, vel vasa sacro officio deputata contrectant, ut ab omni humano sanguine etiam hostili abstineant. Quod si in hoc inciderint, duobus annis, tam officio quam communione priventur: ita ut his duobus annis, vigiliis, jejuniis, orationibus, et eleemosynis, pro viribus, quas Dominus donaverit, expientur, et ita demum officio, vel communioni reddantur; ea tamen ratione servata, ne ulterius ad officia potiora promoveantur.

^c Ibid. can. v. (p. 1612.) Hi qui altario Dei deserviunt, si subito in flenda carnis fragilitate corruerint, et Domino respiciente digne ponituerint, ita ut mortificato corpore cordis contriti sacrificium Deo offerant, maneat in potestate pontificis, vel veraciter addictos non diu suspendere, vel desidiosos prolixiore

Orange and Council of Turin^d have canons to the same purpose : and Pope Leo delivers it as a rule, founded upon the general practice of the Church, in the case of heretical clergymen returning to the unity of the faith, that they were to take it as a favour, if they were allowed to continue in the order they were in before, deprived of all^e hopes of further advancement. Among the Greeks, St. Basil^f has a like rule concerning readers, who were guilty of ante-nuptial fornication, that every such delinquent should be suspended a year from his office, μένων ἀπρόκοπος, remaining moreover for ever incapable of attaining to any higher station or preferment in the Church. And Justinian, in one of his Novels,^g made a parallel decree concerning readers, that if any of them married a second wife, or a widow, or one divorced from a former husband, or otherwise forbidden by the laws or sacred canons ; that he should never be advanced to any other ecclesiastical order : or if by any means he happened to be unwarily so advanced, he should be put down again, and reduced to his former order. This was one of those negative punishments, which may be proper to discourage and correct offences of a lesser kind ; and so far as it was serviceable to that end,

tempore ab ecclesiae corpore segregare ; ita tamen, ut sic officiorum suorum loca recipiant, ne possint ad altiora officia ulterius promoveri.

^d Concil. Arausic. I. c. xxiv. (Labbé, vol. iii. p. 1450.) De his qui prius ordinati hoc ipsum inciderunt, Taurinatis synodi sequendam esse sententiam, qua jubentur non ulterius promoveri. — Concil. Taurin. c. viii. (Labbé, vol. ii. p. 1157.) Hi qui contra interdictum sunt ordinati, vel in ministerio filios genuerunt, ne ad majores gradus ordinum permittantur, synodi decrevit auctoritas.

^e Leo Epist. iii. ad Julianum, al. Januarium. (Labbé, vol. iii. p. 1296. D 3.) Circa quos etiam illam canonum constitutionem præcipimus custodiri, ut in magno habeant beneficio, si adempta sibi omni spe promotionis, in quo inveniuntur ordine, stabilitate perpetua maneant : si tamen iterata tinctione non fuerint maculati.

^f Basil. c. lxi. (Labbé, vol. ii. p. 1732.) Ἀναγνώστης ἐὰν τῇ ταυτοῦ μνηστῇ πρὸ τοῦ γάμου συναλλάξῃ, ἐνιαυτὸν ἀργήσας, εἰς τὸ ἀναγινώσκειν δεχθήσεται, μένων ἀπρόκοπος.

^g Justin. Novell. cxliii. c. xiv. (Amstel. 1663. p. 171.) Εἰ ἀναγνώστης δευτέραν γαμετὴν ἀγάγηται, ἢ πρώτην μὲν, χήραν δὲ, ἢ διαζευχθεῖσαν ἀνδρὸς, ἢ τοῖς νόμοις ἢ τοῖς ἱεροῖς κανόσιν ἀπηγορευμένην, μηκέτι εἰς ἄλλον ἐκκλησιαστικὸν βαθμὸν προβαίνειτω· εἰ δὲ οἰσδῇποτε τρόπῳ εἰς μείζονα βαθμὸν προαχθεῖη, ἐκβαλλέσθω αὐτοῦ, καὶ τῷ προτέρῳ ἀποκαθιστάσθω.

it may be reckoned a useful part of the discipline of the Church.

SECT. X.—*The Clergy sometimes punished by denying them the public exercise of their office, whilst they were allowed to officiate in private.*

St. Basil mentions^b another piece of discipline, which was pretty peculiar; for I remember no other writer at present that mentions it beside himself: that was, to deny an offending clergyman the liberty of exercising his office in public, whilst he was allowed to officiate in private. This was a rule made by St. Basil in the case of Bianor and some other presbyters of Antioch in Pisidia; who, upon some injury done them, had rashly sworn they would never execute the office of presbyters any more: but afterward repenting of their rash oath, were willing to be admitted to the exercise of their office again. St. Basil being consulted in the case, determined, that they ought to be restrained from the public exercise of their function, because of the scandal and offence that might be given to many thereby; but still they might be allowed to officiate in private, where no such offence could be taken. These are the specialties of those punishments, which the discipline of the Church commonly inflicted on clergymen for lesser offences; which I have the rather mentioned, because they are seldom to be met with in the accounts of Church-discipline, given by modern writers.

SECT. XI.—*Of Intrusion of Offenders into a Monastery to do penance in private.*

To all these we may add, that, in the fourth and fifth ages, when monasteries began to be settled in the world, nothing was more common than to confine an offending clerk to some monastery, either for a certain term, or during his whole life, as the nature of his temporary suspension or his perpetual

^b Basil. can. xvii. (Labbé, vol. ii. p. 1732. B 5.) 'Ερώτησας ἡμᾶς περὶ Βιάνορος τοῦ πρεσβυτέρου, εἰ δεκτός ἐστιν εἰς τὸν κλῆρον, διὰ τὸν ὕρκον· ἐγὼ δὲ ἤδη τινὰ καὶ κοινὸν ὅρον περὶ πάντων ὁμοῦ τῶν μετ' αὐτοῦ ὁμωμοκότων, τοῖς κατ' Ἀντιόχειαν ἐκληρικοῖς οἶδα ἐκτεθεικώς· ὥστε τῶν μὲν δημοσίων αὐτοὺς ἀπέχεσθαι συλλόγων, ἰδίᾳ δὲ ἐνεργεῖν τὰ τῶν πρεσβυτέρων.

deprivation required ; there to exercise himself in acts of private repentance for his offences. This was a convenience rather than a punishment, giving them an opportunity of qualifying themselves the better either for a restoration to their office, or for their reception into lay-communion : and therefore it was indifferently used both in cases of deprivation and suspension. Many who were only suspended from the exercise of their office for a certain time, were yet confined to a monastery during that term ; as appears from one of Justinian's Novels, where it is ordered, 'that if a presbyter or a deacon was convicted of giving false evidence in a pecuniary cause, they should be suspended from their ministry for three years, and be confined¹ to a monastery during the time of their suspension.' And this was in lieu of scourging, which was inflicted for this crime upon other offenders. The second Council of Seville decrees the same² in the case of a clergyman who deserts his own Church without his bishop's leave, and makes his residence in any other : he is to lose the badge of his honour and ordination for some time, and be bound to a monastery, till it be proper to recall him to the ministry of his ecclesiastical order again. But in case the punishment amounted to a total and perpetual deprivation, then they were frequently sent to a monastery for their whole lives, and there they spent the remainder of their days only in lay-communion. Of which the canons of Agde and Epone¹ are full proof, to which I refer the learned reader, in the Notes.

¹ Justin. Novell. cxxiii. c. xx. vid. sub litt. (t) p. 387.

² Concil. Hispal. can. iii. (Labbé, vol. v. p. 1664, at bottom.) Desertorem clericum, cingulo honoris atque ordin[ation]is sui(æ) exutum, aliquo tempore monasterio deligari [relegari, religari] convenit : sicque postea in ministerio ecclesiastici ordinis revocari.

¹ Concil. Agath. c. l. (Labbé, vol. iv. p. 1391.) Si episcopus, presbyter, aut diaconus, capitale crimen commiserit, aut chartam falsaverit, aut testimonium falsum dixerit, ab officii honore depositus in monasterium retrudatur : et ibi, quam diu vixerit, laicam tantummodo communionem accipiat.—Conc. Epaon. c. xxii. (Labbé, vol. iv. p. 1579.) Si presbyter aut diaconus crimen capitale commiserit, ab officii honore depositus, in monasterium retrudatur, ibi tantummodo, quamdiu vixerit, communionem sumenda.

SECT. XII.—*Of corporal Punishment. How far used as a piece of Discipline upon the inferior Clergy.*

We may observe farther, that in the same ages, when it was the custom to shut delinquents up in a monastery, some corporal punishment, and confinement in prison also, was used, as a piece of Church discipline, to correct the inferior orders. I have had occasion to show before,¹ that the larger Churches had commonly their Decanica, or prisons, for this purpose; which were not any one distinct building, but some of the Catechumenia, or Diaconica, or Secretaria, belonging to the Church, and made use of for this end, to put offending clerks to a more decent confinement in them. It has also been noted² in another place, that all monasteries had the discipline of the whip or scourge among them, to punish the junior monks and unruly offenders. And it is as certain it was also used for the correction of the inferior orders among the clergy. The Council of Agde mentions it twice; first as the punishment^m of those who wandered about from one Church to another without the recommendatory letters of their bishop; whom the canon orders first to be corrected by words, and then by stripes, if they remained incorrigible upon admonition. Another canon appointsⁿ the same discipline for drunkenness: a clerk who is convicted of being drunken, is either to be suspended thirty days from communion, or else to be chastised by corporal punishment. The Council of Epone^o expressly distinguishes between the superior and inferior clergy in the case: if one of the superior clergy feast with a heretic, he is to be suspended for a year; but one of the inferior, for the same

¹ Lib. viii. c. vii. § ix. vol. ii. p. 472.

² Lib. vii. cap. iii. § xii. vol. ii. p. 201.

^m Concil. Agath. c. xxxviii. (Labbé, vol. iv. p. 1389.) Clericis sine commendatis epistolis episcopi sui licentia non pateat evagandi: . . . quos si verborum increpatio non emendaverit, etiam verberibus statuimus coerceri.

ⁿ Ibid. c. xli. (p. 1390.) Ante omnia clericis vitetur ebrietas, quæ omnium vitiorum fomes ac nutrix est. Itaque eum quem ebrium fuisse constiterit, ut ordo patitur, aut triginta dierum spatio a communione statuimus submovendum, aut corporali subdendum supplicio.

^o Conc. Epæon. c. xv. (Labbé, vol. iv. p. 1578.) Si superioris loci clericus hæretici cujuscunque convivio interfuerit, anni spatio pacem ecclesiæ non habebit: quod juniores [minores] clerici si præsumserint, vapulabunt.

crime is to be beaten. The first Council of Mascon^p orders, that 'if a clergyman be found wearing an indecent habit, or carrying arms, he shall be imprisoned thirty days, and fed only with bread and water.' This imprisonment was the punishment of the superior clergy; for, in another canon, the distinction is expressly made^q in the case of one clergyman accusing another before a secular magistrate: 'if he was one of the superior clergy, he was to be imprisoned thirty days; if one of the inferior, to receive forty stripes, save one.' And this was done in conformity to the rule in the law of Moses, that they should not exceed forty stripes; only in case the crime was great, they might repeat them after some days; which is observed out of the life of Cæsarius Arelatensis by the late French author of the *Historia Flagellantium*,^r who cites many other writers, which need not here be mentioned. I only add that of St. Austin^s who says, this way of coercion was used in bishops' courts in his time; but whether he means towards the clergy, or the laity, is not absolutely certain. It might be towards both perhaps in lesser criminal causes, that were of an ecclesiastical nature: for as to those criminal causes which were of a civil nature, bishops had no power, especially in cases of blood; in which sort of judgments a bishop could not be concerned, without incurring himself the highest censures of the Church; but they might have liberty to chastise the inferior clergy with corporal correction. The law indeed, in many cases, exempted the superior clergy from corporal punishment: as if a presbyter or a deacon gave false testimony in a pecuniary cause, they might be suspended, and sent to a monastery for a time, but not be corporally punished as other

^p Conc. Matiscon. I. can. iii. (al. v.) (Labbé, vol. v. p. 968.) Clericus, si cum indecenti veste aut cum armis inventus fuerit, a seniore[-ibus] ita coerceatur, ut triginta dierum inclusione detentus, aqua tantum et modico pane diebus singulis sustentetur.

^q Ibid. can. v. (al. viii.) (p. 968.) Quicumque clericus hoc implere distulerit, si junior fuerit, uno minus de quadraginta ictus accipiat; sin certe honorator, triginta dierum conclusionem multetur.

^r *Historia Flagellantium*, c. v. et vi. Paris. 1700. 8vo.

^s Augustin. Epist. clix. ad Marcellinum. (Bened. 1700. vol. ii. p. 300, at bottom.) Qui modus coërcitionis [per virgarum verbera] et a magistris artium liberalium, et ab ipsis parentibus, et sæpe etiam in judiciis solet ab episcopis adhiberi.

men. In criminal causes, it was otherwise: false testimony, in such a case, deprived them of their orders, and reduced them to the state of laymen; and then, as other laymen, they were liable to corporal punishment, according as the laws required. But whether it were a pecuniary cause or a criminal cause, if one of the inferior orders gave false testimony, in either case he was liable to suffer corporal punishment: and in this consisted the difference between the superior and inferior clergy in this part of discipline; as is noted in one of Justinian's Novels,^t which helps to explain the practice of the Church. And this is what I had to observe concerning those punishments, which, by the rules of the ancient discipline, were peculiarly inflicted on the clergy for the correction of their offences.

^t Justin. Novell. cxliii. c. xx. (Amstel. 1663. p. 172.) Τοῖς εὐλαβεστάτοις πρεσβυτέροις καὶ διακόνοις, εἰ εὐρεθῆεν ὑπὲρ χρηματικῆς αἰτίας ψευδομαρτυρήσαντες, ἀρίσκει ἀντὶ βασάνων ἐπὶ τρεῖς ἑνιαυτοὺς χωρίζεσθαι τῆς θείας ὑπηρεσίας, καὶ μοναστηρίοις παραδίδοσθαι ὑπὲρ δὲ ἐκκλησιαστικῶν αἰτιῶν εἰ ψευδομαρτυρίαν εἴποιεν, τῆς ἐν τῷ κλήρῳ ἀξίας γυμνουμένους, ταῖς νομίμοις ὑποβάλλεσθαι ποιναῖς προστάττομεν. Τοὺς δὲ λοιποὺς τοὺς ἐν ταῖς ἄλλαις ἐκκλησιαστικαῖς τάξεσιν ἀναφερομένους, εἰ πλαστήν μαρτυρίαν ἐν οἰσθήποτε πράγματι, εἴτε χρηματικῷ, εἴτε ἐκκλησιαστικῷ, εἰρηκέναι διελεγχθείησαν, μὴ μόνον τοῦ κλήρου καὶ τῆς ἐκκλησιαστικῆς τάξεως ἐκβάλλεσθαι, ἀλλὰ καὶ βασάνοις ὑποβάλλεσθαι.

CHAPTER V.

A PARTICULAR ACCOUNT OF THE CRIMES FOR WHICH CLERGYMEN WERE LIABLE TO BE PUNISHED WITH ANY OF THE FOREMENTIONED KINDS OF CENSURE.

SECT. I.—*All Crimes that were punished with Excommunication in a Layman, punished with Suspension or Deposition in the Clergy.*

It remains that we now give a particular account of those crimes for which clergymen might be punished. And here we must observe, that their crimes were of two sorts, such as were common to them with laymen; and such as they might be guilty of in transgressing the rules particularly relating to their office and function. Of the former sort, I need not discourse particularly here; because I have done it largely in the last Book, where I examined the nature of the several great crimes for which a layman might incur the censure of excommunication: there being only this general difference to be observed between the crimes of a laic and an ecclesiastic; that what was commonly punished with excommunication in a layman, was ordinarily punished with suspension or deposition in a clergyman; or, if the crime was very scandalous and flagrant, with excommunication also. For this reason I here pass over the great crimes of idolatry, divination, magic, sorcery and enchantment, apostasy, heresy, schism, sacrilege and simony; which are crimes against the first and second commandment in the decalogue: as also blasphemy, profane swearing, perjury and breach of vows, against the third commandment: all violations of the law enjoining the religious observation of the Lord's-Day, against the fourth commandment: all disobedience and disrespect to parents, and treason and rebellion against princes, and general contempt of the laws of the

Church, infringing the obligations of the fifth commandment : all the species of murder against the sixth commandment ; and all species of uncleanness and intemperance against the seventh : all kinds of theft, fraud, oppression and injustice against the eighth : and all kinds of false testimony, libelling, informing, calumny and slander, against the ninth commandment ; because I have already spoken of all these in particular, and showed, that as they were punished with excommunication in the laity, so they were commonly punished with suspension or deprivation, and sometimes with excommunication, in the clergy also. But besides these crimes, common both to laity and clergy, there were many transgressions and offences that might be committed by the clergy against the particular rules of their function and profession : and of these we are here to make a more special enquiry. Some of these respected their entrance upon their office ; others, their behaviour in it. We will now speak particularly, but briefly and succinctly, of both.

SECT. II.—*Some Crimes rendered an Ordination originally void, and for such the Clergy were immediately liable to be degraded from their very first ordination. As first for Ignorance or Heterodoxy in Religion.*

Some qualifications were originally required in the clergy, as necessary at their entrance upon the clerical life and function : and therefore certain rules were prescribed for a due examination and enquiry into these before their ordination ; and a defect in any of these qualifications, or a transgression against any of these rules, was enough to render an ordination null and void ‘*ab origine* ;’ so that the clergy thus ordained were liable to be degraded or deposed immediately from their very first ordination. Of these qualifications (as I have had occasion to show more at large in a former book¹) some respected their faith and knowledge ; others, their former life and morals ; and others, their outward quality and condition in the world. And a defect in any of these qualifications, or a transgression of any of the rules prescribed, was in the common course of the discipline of the Church, a sufficient reason to depose a

¹ Book iv. c. iii. vol. i.

clergyman as soon as he was ordained. The first and principal qualification so necessarily required, was an orthodox faith, and a competent knowledge in the Scriptures and all things relating to the exercise of his function : and if either a bishop was ordained without such an examination, or without such qualifications, both the ordainer and the ordained were immediately to be deposed. The words of Justinian's law ^a are very express in this business : " If any bishop is ordained contrary to the forementioned observation, we command, that both he who is so ordained, be deposed, and also the bishop who so illegally ordained him."

SECT. III.—*Secondly, for Immorality and transgressing any of the known Rules of Ordination.*

Another strict enquiry was to be made into men's morals ; and if in any notorious instance they had formerly been culpable and scandalous, their ordination was forbidden ; or if by ignorance or surreption they were ordained, they were immediately upon discovery and conviction to be suspended, if not deposed. Thus in the Council of Neocæsarea ^b we find a rule, " That if a presbyter confessed, that before his ordination he had been guilty of corporal uncleanness, he was no longer to be allowed to offer the sacrifice of the altar." This sin always made a man 'irregular ;' though some were of opinion, as the canon intimates, that other sins were done away by ordination.

^a Justin. Novell. cxxxvii. c. ii. (Amstel. 1663. p. 196.) Εἰ τις παρὰ τὴν μνημονευθεῖσαν παραφυλακὴν ἐπίσκοπος χειροτονηθῇ, κλειόμεν καὶ αὐτὸν πᾶσι τρόποις τῆς ἐπισκοπῆς ἐκβάλλεσθαι, καὶ τὸν παρὰ ταῦτα τολμήσαντα χειροτονῆσαι.

^b Conc. Neocæsar. can. ix. (Labbé, vol. i. p. 1481.) Πρεσβύτερος, ἐὰν προημαρτηκῶς σώματι προαχθῇ, καὶ ὁμολογήσῃ, ὅτι ἡμαρτε πρὸ τῆς χειροτονίας, μὴ προσφερέτω, μένων ἐν τοῖς λοιποῖς, διὰ τὴν ἄλλην σπουδὴν. Τὰ γὰρ λοιπὰ ἁμαρτήματα ἔφασαν οἱ πολλοὶ καὶ τὴν χειροθεσίαν ἀφίναί, κ. τ. λ. — Vide Concil. Nic. can. ix. (Labbé, vol. ii. p. 34.) Εἰ τινες ἀνεξετάτως προσήχθησαν πρεσβύτεροι, ἢ ἀνακρινόμενοι ὠμολόγησαν τὰ ἡμαρτημένα αὐτοῖς, καὶ ὁμολογησάντων αὐτῶν, παρὰ κανόνα κινούμενοι ἄνθρωποι τοῖς τοιοῦτοις χεῖρα ἐπιτεθείκασιν· τοὺτους ὁ κανὼν οὐ προσίεται· τὸ γὰρ ἀνεπίληπτον ἐδεκεῖ ἡ καθολικὴ ἐκκλησία. — Can. x. "Ὅσοι προεχειρίσθησαν τῶν παραπεπτωκότων κατὰ ἄγνοιαν, ἢ καὶ προειδόντων τῶν προχειρισμένων, τοῦτο οὐ προκρίνει τῷ κανόνι τῇ ἐκκλησιαστικῇ· γνωσθέντες γὰρ καθαίρονται. Vid. et Concil. Illiberit. c. lxxvi. cit. supra c. ii. § vi. note (z) p. 354.

The canons further required, that a man should be no digamist, or twice married, nor married to a widow, nor to any that had been divorced from another man: and if any such were ordained, by the same rule of Justinian they were immediately liable to be deposed. It was forbidden likewise to ordain any man ἀπολελυμένως, that is, without fixing him to some particular diocese or church: and the ordination of any one contrary to this rule, is by Pope Leo^e pronounced vain; and, by the great Council of Chalcedon,^d null and void. It was another rule of this kind, for the preservation of good order in the Church, that no bishop should ordain another man's clerk without his consent: and if any one did so, the great Council of Nice,^e and the Council of Sardica,^f and the second of Arles,^g peremptorily pronounce all such ordinations null and void. It was required in the election and ordination of a bishop, that there should be the general consent of these four parties, the clergy, the people, the provincial bishops, and the metropolitan: and ordinations, performed in derogation to any part of this rule, are, by abundance of canons, declared absolutely void; and bishops, so promoted, are appointed to be deposed. The

^e Leo, epist. xcii. ad Rustic. c. i. (Lugdun. 1700. vol. i. p. 207.) Vana habenda est creatio [ordinatio], quæ nec loco fundata est, nec auctor[itat]e munita.

^d Concil. Chalced. can. vi. (Labbé, vol. iv. p. 758.) Μηδένα δὲ ἀπολελυμένως χειροτονεῖσθαι, μήτε πρεσβύτερον, μήτε διάκονον, μήτε ὅλως τινὰ τῶν ἐν ἐκκλησιαστικῇ τάγματι· εἰ μὴ ἰδικῶς ἐν ἐκκλησίᾳ πόλεως, ἡ κώμης, ἡ μαρτυρίῃ, ἡ μοναστηρίῃ, ὁ χειροτονούμενος ἐπικηρύττοιο· τοὺς δὲ ἀπολύτως χειροτονούμενους ὥρισεν ἡ ἀγία σύνοδος ἄκυρον ἔχειν τὴν τοιαύτην χειροθεσίαν, καὶ μηδαμῷ δύνασθαι ἐνεργεῖν ἐφ' ὕβρει τοῦ χειροτονήσαντος. See Book iv. c. vi. § ii. vol. i.

^e Conc. Nic. c. xvi. (Labbé, vol. i. p. 36.) Εἰ δὲ καὶ τολμήσῃ τις ὑφαρπάσαι τὸν τῷ ἑτέρῳ διαφέροντα, καὶ χειροτονῆσαι ἐν τῇ αὐτοῦ ἐκκλησίᾳ, μὴ συγκατατιθεμένου τοῦ ἰδίου ἐπισκόπου, οὐ ἀνεχώρησεν ὁ ἐν τῷ κανόνι ἐξεταζόμενος ἄκυρος ἔστω ἡ χειροτονία.

^f Concil. Sardic. c. xv. (Labbé, vol. ii. p. 640.) Καὶ τοῦτο δὲ πάντες ὀρίσωμεν, ἵνα εἰ τις ἐπίσκοπος ἐξ ἑτέρας παρουκίας βουλευθῇ ἄλλότριον ὑπηρετήν, χωρὶς τῆς συγκαταθέσεως τοῦ ἰδίου ἐπισκόπου, εἰς τινα βαθμὸν καταστήσῃ, ἄκυρος καὶ ἀβέβαιος ἡ κατάστασις ἡ τοιαύτη νομίζοιτο.

^g Concil. Arelat. II. c. xiii. (Labbé, vol. iv. p. 1012.) Nullus cujuscumque ordinis clericus, non diaconus, non presbyter, non episcopus, quacumque occasione faciente, propriam relinquat ecclesiam: sed omnimodis aut excommunicetur, aut redire cogatur. Quod si aliquo commorationis tempore, invito episcopo suo, in aliena ecclesia habitans, ab episcopo loci clericus fuerit ordinatus, hujusmodi ordinatio irrita habeatur.

Council of Antioch is express in requiring the presence, or consent of the provincial bishops^b and metropolitan; decreeing, that an ordination, performed contrary to this rule, shall be of no force, *μηδὲν ἰσχύειν*. The Council of Reiz¹ for this reason actually degraded Armentarius, Bishop of Ambrun, because he had neither the general consent of the provincial bishops, nor the metropolitan; but was clancularly ordained by two bishops without the knowledge of the other parties chiefly concerned. The canons, in the Latin Church especially, are altogether as peremptory and plain in disannulling all ordinations of bishops to any place against the general consent of the people. "Let no bishop," says one of the Councils of Orleans,^k "be imposed upon a people against their wills. Nor let the clergy and people be constrained to give their consent by the oppression of any potent persons. If any such thing is done, the bishop who is so ordained rather by violence,

^b Concil. Antioch. c. xix. (Labbé, vol. ii. p. 569.) 'Επίσκοπον μὴ χειροτονεῖσθαι δίχα συνόδου καὶ παρουσίας τοῦ ἐν τῇ μητροπόλει τῆς ἐπαρχίας· τούτου δὲ παρόντος ἐξάπαντος βέλτιον μὲν συνεῖναι αὐτῷ πάντας τοὺς ἐν τῇ ἐπαρχίᾳ συλλειτουργοὺς, καὶ προσήκει δι' ἐπιστολῆς τὸν ἐν τῇ μητροπόλει συγκαλεῖν, καὶ εἰ μὲν ἀπαντοῖεν οἱ πάντες, βέλτιον· εἰ δὲ δυσχερὲς εἴη τοῦτο, τοὺς γε πλείους ἐξάπαντος παρεῖναι δεῖ, ἥ διὰ γραμμάτων ὁμοψήφους γενέσθαι· καὶ οὕτως μετὰ τῆς τῶν πλειόνων ἤτοι παρουσίας, ἢ ψήφου γίνεσθαι τὴν κατάστασιν. Εἰ δὲ ἄλλως παρὰ τὰ ὠρισμένα γίγνοιτο, μηδὲν ἰσχύειν τὴν χειροτονίαν· εἰ δὲ κατὰ τὸν ὠρισμένον κανόνα γίγνοιτο ἢ κατάστασις, ἀντιλέγοιεν δὲ τινες δι' οἰκίαν φιλονικίαν, κρατεῖν τὴν τῶν πλειόνων ψῆφον.

¹ Conc. Regens. c. ii. (Labbé, vol. iii. p. 1286.) Ordinationem, quam canones irritam definiunt, nos quoque evacuandam esse censuimus, in qua, prætermisssæ trium præsentia, nec expetitis comprovincialium litteris, metropolitani quoque voluntate neglecta, prorsus nihil, quod episcopum faceret, ostensum est.—Vide Conc. Arelat. II. c. vi. (Labbé, vol. iv. p. 1012.) Illud ante omnia clareat, eum qui sine consensu metropolitani constitutus fuerit episcopus, juxta magnam synodum esse episcopum non debere.—Concil. Aurelian. V. c. x. (Labbé, vol. v. p. 393.) Ut nulli episcopatum præmiis aut comparatione liceat adipisci, sed cum voluntate regis, juxta electionem cleri ac plebis, sicut in antiquis canonibus tenetur scriptum, a metropolitano, vel quem in vice sua præmiserit, cum comprovincialibus pontifex consecratur. Quod si quis hanc regulam hujus sanctæ constitutionis per coëmptionem excesserit, eum qui per præmia ordinatus fuerit, statuimus removendum.

^k Concil. Aurel. V. c. xi. (Labbé, vol. v. p. 393.) Nullus invitis detur episcopus; sed nec per oppressionem potentium personarum ad consensum faciendum cives aut clerici, quod dici nefas est, inclinentur. Quod si factum fuerit, ipse episcopus, qui magis per violentiam, quam per decretum legitimum ordinatur, ab indepto episcopatus honore in perpetuum deponatur.

than any legal decree, shall be deposed for ever from the honour of his priesthood." In like manner the Council of Chalons,¹ "A bishop shall not be chosen to any city any other way, but by the consent of the provincial bishops, the clergy, and the people: if otherwise, the ordination shall be null and void." To this agrees the resolution of Pope Leo in answer to the queries of a French bishop, "That reason^m will not allow those to be received as bishops who were neither chosen by the clergy, nor desired by the people, nor consecrated by the provincial bishops with the judgment of the metropolitan." And that rescript of Honorius concerning the election of the Bishop of Rome,ⁿ that if two bishops were ordained by two contending parties, neither of them should be bishop, but one who was chosen out of the clergy by the judgment of the provincial bishops and the consent of all the people. So that if any bishop was ordained against these rules, his ordination was void, and he was liable to be deposed, as soon as he was ordained. So if any bishop was ordained, who was before under the sentence of deposition, his ordination was null, as was declared in the case of Timotheus Ælurus by several provincial councils, related in the acts of the Council of Chalcedon.^o If

¹ Concil. Cabillon. I. c. x. (Labbé, vol. vi. p. 389.) Si quis episcopus de quacunque civitate fuerit defunctus, non ab alio nisi a comprovincialibus, clero et civibus suis, alterius habeatur electio: sin aliter, hujus ordinatio irrita habeatur.

^m Leo Epist. xcii. ad Rustic. Narbonens. c. i. (Lugdun. 1700. vol. i. p. 206.) Nulla ratio sinit, ut inter episcopos habeantur, qui nec a clericis sunt electi, nec a plebibus expetiti, nec a provincialibus episcopis cum Metropolitanis iudicio consecrati.

ⁿ Honor. rescript. ad Bonifac. ap. Crab. tom. i. p. 491. Si duo contra fas temeritate certantes, fuerint ordinati, nullum ex his futurum penitus sacerdotem; sed illum solum in sede apostolica permansurum, quem ex numero clericorum, nova ordinatione, divinum iudicium, et universitatis consensus elegerit. (Labbé, vol. ii. p. 1583.)

^o Synod. Cappadoc. in Actis Conc. I. Chalced. part. iii. c. li. (tom. iv. concil. p. 956. B 5.) Ea quæ de Timotheo gesta sunt, penitus non laudamus: sacerdotium habere non potest. Primum quidem, quia oportet eum, qui ex quacunque causa deponitur, sustinere, et neque ad eum gradum accedere, neque ad maiorem currere dignitatem, antequam is, qui eum deposuit, solvat sententiam in eo prolatam, aut certe sanctorum episcoporum synodus, quæ perspexerint justa, definiant.—Synod. Galat. ibid. c. lvii. p. 970. C 4. Eum qui ex quacunque causa depositus est, non solum ad maiorem gradum venire lex ecclesiastica non permittit, sed neque in ordine in quo fuit permanere, nisi deponens propria sententia eum rursus absolvat, aut certe synodus sanctorum episcoporum aliquid

a bishop was ordained into a full see, where another was regularly ordained before him, his ordination was of no effect: he was to be reputed as no bishop, but to be rejected as an adulterer, an intruder, an invader of other men's rights, and a wolf only in sheep's clothing; which was the answer that Cyprian^p gave in the case of Novatian; and the Council of Sardica^q in Hilary's collection; and the oriental bishops and synods^r in the forementioned case of Timotheus Ælurus, mentioned both by Liberatus, and their own acts in the end of the Council of Chalcedon. In like manner it was a rule in the Church, that no Energumens, or person possessed with an evil spirit, should be ordained: or if any such by any chance or mistake were ordained, he was immediately to be deposed. This is very expressly decreed in the first Council^s of Orange: Energumens are not only not to be taken into any order of the clergy, but those who are already ordained, shall be removed from their office also. "There is a necessity of removing such demoniacs," says Gelasius,^t "lest such ministers should scandalize the weak, for whom Christ died." It was another rule of the Church, that no one who had voluntarily disfigured or dis-

de eo disponat. Vide sis et synod. Paphlagon. c. liv. et synod. Corinth. c. lvi. ibid.

^p Cyprian. Epist. lv. ad Antonian. (Oxon. 1682. p. 104.) (p. 243, edit. Amstel. 1700.) Factus est Cornelius episcopus de Dei et Christi ejus judicio, de clericorum pene omnium testimonio, de plebis quæ tunc adfuit suffragio, et de sacerdotum antiquorum et bonorum virorum collegio; quum nemo ante se factus esset, quum Fabiani locus, id est, quum locus Petri et gradus cathedræ sacerdotalis vacaret. Quo occupato de Dei voluntate, atque omnium nostrum consensione firmato; quisquis jam episcopus fieri voluerit, foris fiat necesse est; nec habeat ecclesiasticam ordinationem, qui ecclesiæ non tenet unitatem; quisquis ille fuerit, multum de se licet jactans, et sibi plurimum vindicans; profanus est, alienus est, foris est. Et ibid. p. 249. Nisi si episcopus tibi videtur, qui, episcopo in ecclesia a sedecim coëpiscopis facto, adulter atque extraneus episcopus fieri a desertoribus per ambitum nititur, etc.

^q Hilar. de Synodis, p. 128.

^r Liberat. Breviar. cap. xv. tot. (Labbé, tom. v. concil. p. 763, 764.) Et acta Concil. Chalced. part. iii. epist. xxxviii. xxxix. xli.

^s Conc. Arausic. I. c. xvi. (Labbé, vol. iii. p. 1450.) Energumeni non solum non assumendi sunt ad ullum ordinem clericatus, sed etsi jam aliqui ordinati [et illi, qui ordinati jam] sunt, ab imposito officio sunt repellendi.

^t Gelas. Epist. ix. ad episc. Lucaniæ, c. xix. (Labbé, vol. iv. p. 1193.) Necessario removendi sunt, ne quibuslibet, pro quibus Christus est mortuus, scandalum generetur infirmis.

membered his own body, should ever be admitted to any sacred ^u order: and therefore if any such were actually ordained, by the order of the great Council of Nice ^v they were to cease from officiating; to be secluded from the clerical function, as soon as discovered, according to the decree of Gelasius; ^x or, as the Roman Council under Hilary ^y words it, “if any such crept into orders, the bishop who consecrated them, was obliged to nullify and dissolve his own act, as soon as the fraud was discovered.” Another rule was, that no person who was unbaptized, or irregularly baptized without the due form of baptism, should be admitted to holy orders: and for this reason the Council of Nice ^z ordered all such as were ordained by the Paulianists, to be both rebaptized and reordained, if they were otherwise found qualified for their function. A like order was made concerning all such as were baptized among heretics, or rebaptized by them; that no such should be ordained: and if any of either kind were surreptitiously admitted to orders, they were to be deposed, under penalty of deposition to the bishop himself, who should presume ^a either to ordain any such, or not

^u Can. Apostol. xxi. (Labbe, vol. i. p. 29.) ‘Ο ἑαυτὸν ἀκρωτηριάσας, μὴ γινέσθω κληρικός· αὐτοφονευτής [αὐτοφόντης] γάρ ἐστιν ἑαυτοῦ, καὶ τῆς τοῦ Θεοῦ δημιουργίας ἑχθρός.—Concil. Arelat. II. c. vii. (Labbe, vol. iv. p. 1012.) Hos qui se carnali vitio repugnare nescientes abscindunt, ad clerum pervenire non posse.

^v Conc. Nic. c. i. (Labbe, vol. ii. p. 29.) Εἰ τις ὑγιαίνων ἑαυτὸν ἐξέτεμε, τοῦτον καὶ ἐν τῷ κλήρῳ ἐξεταζόμενον πεπαῦσθαι προσήκει· καὶ ἐκ τοῦ δεῦρο μηδένα τῶν τοιούτων χρῆναι προάγεσθαι.

^x Gelas. Epist. ix. c. xix. (Labbe, vol. iv. p. 1193.) Si corpore sauciatum fortassis aut debilem nequaquam sancta contingere lex divina permittit; quanto magis doni coelestis dispensatores esse non convenit, quod est deterius, mente percussos!

^y Concil. Rom. c. iii. (Labbe, vol. iv. p. 1061.) Inscii litterarum, nec non et aliqua membrorum damna perpessi, et hi qui ex poenitentibus sunt, ad sacros ordines adspirare non audeant. Quisquis talium consecrator exstiterit, factum suum dissolvat.

^z Conc. Nic. can. xix. (Labbe, vol. ii. p. 37.) Περὶ τῶν Παυλιανισάντων, εἰτα προσφυγόντων τῇ καθολικῇ ἐκκλησίᾳ, ὅρος ἐκτίθεται ἀναβαπτίζεσθαι αὐτοὺς ἐξάπαντος· εἰ δὲ τινες ἐν τῷ παρεληλυθότι χρόνῳ ἐν τῷ κλήρῳ ἐξηγάσθησαν, εἰ μὲν ἀμεμπτοὶ καὶ ἀνεπίληπτοι φανεῖν, ἀναβαπτισθίντες χειροτονείσθωσαν ὑπὸ τοῦ τῆς καθολικῆς ἐκκλησίας ἐπισκόπου· εἰ δὲ ἡ ἀνάκρισις ἀνεπιτηδείως αὐτοὺς εὐρίσκοι, καθαιρεῖσθαι αὐτοὺς προσήκει, κ. τ. λ.

^a Felic. iii. Epist. i. c. v. Qui in qualibet ætate, alibi quam in ecclesia catholica, aut baptizati aut rebaptizati sunt, ad ecclesiasticam militiam prorsus non

remove them when fraudulently ordained by others. If any one made use of the secular powers to gain a promotion in the Church, by a rule^b of the Apostolical Canons he was to be deposed; and all that communicated with him, were to be suspended from Christian communion. If a bishop ordained any of his unworthy kindred for mere favour, by a rule of the same Apostolical Canons^c the ordination was null, and the bishop himself was to be suspended. And to this agrees the order made in the tenth Council of Toledo^d to the same purpose. If a bishop ordained his own successor, by a rule of the Council of Antioch^e his ordination was null, because it was

admittantur. . . . Quoniam de suo ordine et communione videbitur ferre iudicium, quisquis hoc violaverit institutum, vel qui non removerit eum, quem ex eis ad ministerium clericale obrepissse cognoverit.

^b Can. Apost. can. xxix. (Labbé, vol. i. p. 31.) Εἰ τις ἐπίσκοπος κοσμοκοῖς ἄρχουσι χρησάμενος, δι' αὐτῶν ἐγκρατὴς γένηται ἐκκλησίας, καθαιρεῖσθω, καὶ ἀφοριζέσθω[σαν] καὶ οἱ κοινωνοῦντες αὐτῷ πάντες.

^c Can. Apost. c. lxxv. "Οτι μὴ χρὴ τὸν ἐπίσκοπον τῷ ἀδελφῷ, ἢ τῷ υἱῷ, ἢ ἐτέρῳ συγγενεῖ χαριζόμενον τὸ ἀξίωμα τῆς ἐπισκοπῆς, χειροτονεῖν οὓς αὐτὸς βούλεται· κληρονόμους γὰρ τῆς ἐπισκοπῆς αὐτοῦ ποιεῖσθαι οὐ δίκαιον, τὰ τοῦ Θεοῦ χαριζόμενον πάθει ἀνθρωπίνῳ· οὐ γὰρ τὴν τοῦ Χριστοῦ ἐκκλησίαν ὑπὸ κληρονομίαν ὀφείλει τιθέναι· εἰ δὲ τις τοῦτο ποιήσῃ, ἄκυρος μὲν ἔστω ἡ χειροτονία, αὐτὸς δὲ ἐπιτιμάσθω ἀφορισμῷ. Labbé, (vol. i. p. 41. c. lxxv.) reads the canon thus: "Οτι οὐ χρὴ ἐπίσκοπον τῷ ἀδελφῷ ἢ υἱῷ, ἢ ἐτέρῳ συγγενεῖ χαρίζεσθαι πάθει ἀνθρωπίνῳ· οὐ γὰρ τὴν τοῦ Θεοῦ ἐκκλησίαν ὑπὸ κληρονόμους ὀφείλει τιθέναι. Εἰ δὲ τις τοῦτο ποιήσῃ, ἄκυρος μενέτω ἡ χειροτονία, αὐτὸς δὲ ἐπιτιμάσθω ἀφορισμῷ.

^d Conc. Toletan. X. can. iii. (Labbé, vol. vi. p. 396.) Agnovimus quosdam pontifices præcepti principis apostolorum, qui ait: 'Pascite, qui in vobis est, gregem,' etc. ita esse immemores, ut quibusdam monasteriis, parochialibusque ecclesiis, aut suæ consanguinitatis personas, aut sui favoris participes, inique sæpe statuant in prælatum; ita illis providentes commoda inhonesta, ut eisdem deferantur, aut quæ proprio episcopo dare justus ordo poposcerit, aut quæ rapere deputati exactoris violentia potuerit. Proinde decenter omnibus placeat, et in præsentem tale rescindere factum, et non esse de cetero faciendum. Nam quisquis pontificem deinceps, aut sanguine propinquis, aut favore sibi personis quibuscumque devinctis talia commodare lucra tentaverit ausu nefandæ præsumptionis; et quod visum fuerit, devocetur in irritum, et qui ordinavit, annuæ excommunicationis ferat excidium.

^e Conc. Antioch. c. xxiii. (Labbé, vol. ii. p. 572.) 'Επίσκοπον μὴ ἐξείναι ἀντ' αὐτοῦ καθιστᾶν ἕτερον αὐτοῦ διάδοχον, κὰν πρὸς τῇ τελευτῇ τοῦ βίου τυγχάνει· εἰ δὲ τι τοιοῦτο γίγνοιτο, ἄκυρον εἶναι τὴν κατάστασιν, φυλάττεσθαι δὲ τὸν θεσμόν τὸν ἐκκλησιαστικόν, περιέχοντα, μὴ δεῖν ἄλλως γίνεσθαι, ἢ μετὰ συνόδου καὶ ἐπικρίσεως ἐπισκόπων, τῶν μετὰ τὴν κοίμησιν τοῦ ἀναπαυσάμενου τὴν ἐξουσίαν ἔχόντων τοῦ προάγεσθαι τὸν ἄξιον.

clandestinely done without the consent of a provincial synod. Or if a bishop was ordained only by two bishops, for the same reason he was liable to be deposed, because it was done against the rule which required the concurrence of the metropolitan and the provincial synod. Therefore the first Council of Orange^f ordered, in such a case, that if two bishops presumed to ordain a bishop by themselves, both the ordaining bishops were to be deposed; and if the bishop was ordained against his will, he should be put into the place of one of the deposed bishops: but if he was ordained by his own consent, then he also was to be deposed, that the rule, prescribed by the ancient canons, might be more cautiously observed. And the Council of Riez^g actually deposed Armentarius, Bishop of Ambrun, for this very reason, because he had not three bishops to ordain him. All these were transgressions against the known rules of ordination, and imputed to men as immoralities; because they were violations of those good rules and orders, which were made with great wisdom for the regular government and benefit of the Church. And therefore if, in any of these cases, a crime was committed, the ordination was liable to be declared void originally by the discipline of the Church; and the clergy so ordained might be deposed, as soon as they were ordained, for the offences committed in their ordination. It is true, indeed, the Church did not always actually depose such: but then she dispensed with her own rules; and such dispensations were only matters of favour and indulgence, in some special cases, when the Church, for prudential reasons, thought fit to relax her discipline, and grant men such allowances, as in strictness of law they could not challenge. The general rules of discipline were still in force; though the

^f Concil. Arausic. I. c. xxi. (Labbé, vol. iii. p. 1450.) Duo si præsumserint ordinare episcopum, placuit de presumptoribus, ut, sicubi contigerit, duos episcopos episcopum invitum facere, auctoribus damnatis, unius eorum ecclesiæ ipse, qui vim passus est, substituitur: si voluntarium duo fecerint, et ipse damnabitur, quo cautius ea, quæ sunt antiquitus instituta, serventur.

^g Conc. Regens. c. ii. (Labbé, vol. ii. p. 1286.) Ordinationem, quam canones irritam definiunt, nos quoque evacuandam esse censuimus, in qua, prætermisstrum præsentia, nec expetitis comprovincialium litteris, metropolitani quoque voluntate neglecta, prorsus nihil, quod episcopum faceret, ostensum est. Itaque placuit in voluntate domini, remoto eo, qui perperam assumtus erat episcopus, fieri omnino fratrum constitutionem, ecclesiastica traditione servata.

Church did not always think it proper to put them strictly in execution.

SECT. IV.—*No Remedy allowed in this case by doing public Penance for Offences.*

Neither was it any remedy in this case, that men made a solemn atonement for their crimes before the Church, by doing public penance for them. For this was so far from opening their way to a regular ordination, that it was one of those things that rendered them incapable of it; or if by any secret methods they had attained it, this was thought a sufficient reason to withdraw their orders, and degrade them. “No one that has done public penance,” says the fourth Council of Carthage,^h “shall be ordained a clerk, though he be otherwise a good man: or if by concealment from the bishop’s knowledge this happen to be done, the clerk shall be deposed, because he confessed not at the time of his ordination, that he had done penance in the Church.” After the same manner, the Roman Council, under Pope Hilarius, makes the doing of public penanceⁱ as much a bar to a man’s ordination as the profoundest ignorance, or mangling his own body: and declares, that whatever bishop consecrates any such, he shall be obliged to reverse and cancel his own act; that is, immediately deprive them of their orders, and degrade them. The like was determined by Pope Innocent in the case of one Modestus; who after he had done penance for many crimes, not only was ordained a clergyman, which was against law, but also aimed at a bishoprick. His determination upon the point is this: “That he ought not only to be defeated in his expectation^k of a bishopric; but, according to the canons of Nice,^l be removed from all office among the clergy.” The third Council of Orleans enacted the same: “No one shall be promoted to

^h Conc. Carth. IV. c. lxviii. (Labbé, vol. ii. p. 1205.) Ex pœnitentibus, quamvis sit bonus, clericus non ordinetur. Si per ignorantiam episcopi factum fuerit, deponatur a clero, quia se ordinationis tempore non prodidit fuisse pœnitentem.

ⁱ Conc. Rom. can. iii. (Labbé, vol. iv. p. 1061.) See note (y) p. 395.

^k Innocent. Epist. vi. ad episcopos Apuliæ. Non sola ad episcopatus ambitione, sed etiam (secundum canones Nicænos) a clericatus removeatur officio.

^l Concil. Nic. can. ix. et x. (Labbé, vol. ii. p. 34.) See note (b) p. 390.

holy orders, who has either been married to two wives, or married a widow, or done public penance, &c. And if any bishop wittingly act against these rules, he that is ordained shall be deprived of his office; and the bishop himself^m for six months sequestered or suspended from his ministration." The Council of Agdeⁿ a little moderates the punishment, allowing such presbyters and deacons, who had done penance, to retain the name and honour of their orders; but forbidding deacons to minister the cup, or presbyters to consecrate the oblation of the altar. And the first Council of Toledo^o degrades them, not totally, but allows deacons, thus ordained out of penitents, to take place among the subdeacons, that is, in the next inferior order. Thus one way or other, every clergyman, who had done penance whilst he was a layman, was corrected and punished, for not declaring, when he was ordained, that he was in such a state, as by the rules of the Church was made a just impediment to his ordination; and it was always thought scandalous and offensive to allow any man to officiate as a public minister, who had before been a public penitent in the Church. The Church could admit them to pardon and reconciliation after penance; but would not allow them to aspire to any dignity, or continue them in any sacred office of the clerical function.

^m Concil. Aurelian. III. can. vi. (Labbé, vol. v. p. 297.) De ipsis, qui ordinandi sunt clerici, regulari custodiatur studio, ne aut duarum uxorum vir, aut renuptæ maritus, aut pœnitentiam professus . . . ad ordines promoveatur. Quod si sciens episcopus contra hæc statuta agendum esse crediderit, is quidem qui ordinatur, suscepto juxta anteriores canones privetur officio: sed et ille pro ordinationis temeritate sex mensibus a celebrandis officiis sequestretur.

ⁿ Concil. Agath. c. xliii. (Labbé, vol. iv. p. 1390.) See cap. iii. § ix. note (g) p. 370.

^o Concil. Tolet. I. c. ii. (Labbé, vol. ii. p. 1223.) Placuit, pœnitentes non admittantur ad clerum. . . . Si qui autem ante ordinati sunt diacones, inter subdiacones habeantur.

SECT. V.—*Some impediments of Ordination arising from Men's outward State and Condition in the world, made sometimes occasion of their Deprivation.*

There was another sort of impediments of ordination, which as I observed, arose not from any criminal action in men, but barely from their outward state and condition in the world ; because it happened to be incompatible and inconsistent with the duties of the sacred order : and therefore many strict rules were made to prohibit the ordination of men in such a capacity, and to remove them back again from the clerical to a secular state, if they happened to be unwarily ordained against any such prohibitions. Thus to instance in a few particulars : the military calling (under which, as I have showed in another place,¹ were comprehended not only the armed soldiery of the camp, but also all officers of the emperor's palace, and all apparitors and officials of judges or governors of provinces) I say, the military calling in this comprehensive sense was reckoned inconsistent with the duties of the clerical life : because the men of this vocation were tied by the laws to the service of the empire ; and therefore the laws both of Church and state forbade the admission of them into any order of the Church ; and if they were admitted by any fraud or mistake, they were liable to be deposed, and returned back to their ancient service. The Church had another reason also for refusing the soldiers of the camp, because probably they had embued their hands in blood ; and no such were capable of ordination. Therefore when some such were got into orders in the Spanish Churches, Pope Innocent wrote a sharp letter to the synod of Toledo, telling them, that by reason of the numbers of those who had been so ordained, it was proper to suffer them to continue, for fear of giving disturbance to the Church, and to leave them to the judgment of God : but for the future, if any such were ordained, both the ordainers^p and

¹ Book iv. c. iv. § i. vol. i.

^p Innocent. Epist. xxiii. ad synod. Toletan. cap. iv. (Labbé, vol. ii. p. 1281.) De ordinationibus, quas pravæ consuetudinis vitio Hispanienses episcopus celebrare cognoscimus, fuerat aliquid secundum majorum traditionem statuendum, nisi perperenderemus, ne perturbationes quam plurimis ecclesiis moveremus.

the ordained should be deposed. And the Council of Toledo¹ so far complied with his admonition, as to decree, that 'if any soldiers had been admitted to any of the inferior orders, they should never rise higher to the dignity of deacons in the Church.' The ordination of slaves and vassals was prohibited upon the same account; because they were tied by the law to the service of their temporal masters: so likewise all members of any civil company, or society of tradesmen, because they were tied to the service of the commonwealth: and all those who went by the name of 'Curiales,' or 'Decuriones,' in the Roman government; being members of the 'Curia,' that is, the court or common-council of any city, to whose service they were tied by virtue of their estates and possessions. The ordination of all these sorts of men was generally forbidden both by the laws of Church and state: and if any such were irregularly ordained, masters had liberty to reclaim their slaves; and the state, her soldiers; and any corporation or Curia, their deserting members: and the Church, except in some special cases, was bound to depose them, and readily consented to restore them to their ancient secular station and employment again. Of all which I have given a large account¹ in a former book, and here only hint them to explain the discipline of the Church.

Quorum factum ita reprehendimus, ut propter numerum corrigendorum ea, quæ quoquo modo facta sunt, in dubium non vocemus, sed Dei potius iudicio dimittamus (E). Sed ne deinceps similia committantur, dilectionis vestræ maturitas providere debebit, ut tantæ usurpationi saltem nunc finis necessarius imponatur: eo videlicet constituto, ut si qui posthæc adversus formas canonum, vel ad ecclesiasticum ordinem, vel ad ipsum sacerdotium venire tentaverint, una cum creatoribus suis ipso, in quo inventi fuerint, ordine et honore priventur.

¹ Concil. Tolet. I. c. viii. (Labbé, vol. ii. p. 1224.) Si quis post baptismum militaverit, et chlamydem sumserit, aut cingulum; etiamsi graviora non admisserit, si ad clerum admissus fuerit, diaconii non accipiat dignitatem.

¹ Book iv. c. iv. § ii. vol. i.

SECT. VI.—*What Crimes might occasion the deprivation of the Clergy, or other censures, in the performance of their office. 1. Clergymen to be censured for contempt of the Canons.*

We have hitherto considered the causes and occasions of men's deprivation, arising from some irregularities committed in their entrance upon the clerical office: we are next to view what crimes might occasion their deprivation, or make them liable to other censures, in the performance of it. And here in the first place it may be noted in general, that a clergyman was ever liable to be censured for any contempt of the canons. Concerning which there are directions given in the first Council of Carthage,^r and Turin, and Braga, and several others: but as these equally affect both clergy and laity, I need not be more particular in relating them at length, having done it once before in the general account of discipline¹ in the former book.

SECT. VII.—2. *For Negligence in their Duty.*

2. They were more especially liable to censure for negligence in their office, or any great irregularity committed in the execution of it. "If a bishop or a presbyter be negligent toward the other clergy or people, not instructing them in the ways of godliness, he shall be suspended," say the Apostolical Canons: "and if he continues in his neglect and slothfulness, he shall be deposed." This neglect is termed sacrilege in the civil law,^t and accordingly to be punished under that denomination.

^r Concil. Carthag. I. c. xiv. (Labbé, vol. ii. p. 718.) Si quis statuta supergressus corruperit, vel pro nihilo habenda putaverit, si laicus est, communione, si clericus est, honore privetur.—Conc. Taurin. c. ii. (Labbé, vol. ii. p. 1156.) —Conc. Brac. I. c. xl. (Labbé, conc. ii. can. xxii. tom. v. conc. p. 842.) Placuit, ut quæcumque præcepta antiquorum canonum modo in concilio recitata sunt, nullus audeat præterire. Si quis autem quasi contumax transgreditur, ille necesse est ut de suo degradetur officio.

¹ Book xvi. chap. ix. § v. vol. vi. p. 202.

^s Can. Apost. c. lvii. (Labbé, vol. i. p. 37.) Ἐπίσκοπος ἢ πρεσβύτερος, ἀμελῶν τοῦ κλήρου, ἢ τοῦ λαοῦ, καὶ μὴ παιδεύων αὐτοὺς τὴν εὐσέβειαν, ἀφορίζεσθω ἐπιμένων δὲ τῇ ῥαθυμίᾳ, καθαιρέσθω.

^t Cod. Theodos. lib. xvi. tit. ii. de episcopis leg. xxv. (Lugdun. 1665. vol. vi. p. 57.) Qui divinæ legis sanctitatem aut nesciendo confundunt, et offendunt, aut negligendo violant, sacrilegium committunt.

SECT. VIII.—3. *For neglecting to use the public Liturgy, Lord's Prayer, Hymns, &c.*

3. If the clergy neglected to use the public liturgy, or any part of it, the Lord's Prayer, the stated and received hymns, &c., they were liable to censure and condemnation. The fourth Council of Toledo has several canons to this purpose. "If any priest or inferior clerk," says one canon,^u "neglect to use the Lord's Prayer daily, either in public or in private, let him be condemned for his pride, and be deprived of the honour of his order." Another^v establishes the use of the common prayers, and the Doxology, "Glory be to the Father," &c., and the hymns of St. Hilary and St. Ambrose, composed in honour of the Apostles and martyrs, under the penalty of excommunication to any priest in Spain or Galicia, that should presume to reject them. Another confirms the use of the Hymn of the Three Children under the same^x penalty. A fourth canon^y orders after what manner and form the 'Gloria Patri' shall be sung by all ecclesiastics: and a fifth^z appoints the reading

^u Concil. Tolet. IV. c. x. (Labbé, vol. v. p. 1708. E 11.) Quisquis sacerdotum vel subjacentium clericorum, hanc orationem dominicam quotidie, aut in publico, aut in privato officio præterierit, propter superbiam judicatus, ordinis sui honore privetur.

^v Ibid. can. xiii. (p. 1710. C 3.) Sicut igitur orationes, ita et hymnos in laudem Dei compositos, nullus vestrum ulterius improbet, sed pari modo Gallia [in Galicia] Hispaniaque celebret; excommunicatione plectendi, qui hymnos rejicere fuerint ausi.

^x Ibid. can. xiv. (p. 1710.) Hymnum quoque trium puerorum, in quo universa coeli terræque creatura Dominum collaudat, et quem ecclesia catholica per totum orbem diffusa celebrat, quidam sacerdotes in missa dominicorum dierum, et in solennitatibus martyrum canere negligunt: proinde hoc sanctum concilium instituit, ut per omnes ecclesias Hispaniæ vel Galliæ [Galliciæ] in omnium missarum solennitate idem in pulpito decantetur: communionem amissuri, qui et antiquam hujus hymni consuetudinem nostramque definitionem excesserint.

^y Ibid. c. xv. (p. 1710.) In fine psalmodum non, sicut a quibusdam huc usque, Gloria Patri, sed, Gloria et honor Patri dicatur, David propheta dicente: 'Afferte Domino gloriam et honorem:' et Joannes evangelista in Apocalypsi: 'Audivi vocem cœlestis exercitus dicentem, Honor et gloria Deo nostro sedenti in throno:' ac per hoc hæc duo sic oportet in terris dici, sicut in celis resonant. Universis igitur ecclesiasticis hanc observantiam damus, quam quisquis præterierit, communionis jacturam habebit.

^z Ibid. can. xvii. (Labbé, vol. v. p. 1711.) Apocalypsin librum multorum conciliorum auctoritas et synodica sanctorum præsulum Romanorum decreta

of the Apocalypse at a certain season of the year, between Easter and Pentecost, denouncing the same sentence and punishment of excommunication to any who should either reject the book as uncanonical, or neglect to use it in divine service according to appointment.

SECT. IX.—4. *For making any Alteration in the form of Baptism.*

4. If a minister made any material alteration in the manner of administering the sacraments, he was liable to be deposed for his presumption; as if he either changed the general form of words used in baptism, or the trine immersion received by universal custom in all churches. “If any bishop or presbyter,” says one of the Apostolical Canons,^a “baptize not according to the commandment of the Lord, in the name of the Father, Son, and Holy Ghost; but in three unoriginated beings, *τρεις Ἀνάρχους*, or three Sons, or three Paracletes, let him be deposed.” And the next canon says,¹ “If a bishop or presbyter use not three immersions in the mystery of baptism, but only one immersion into the death of Christ, let him be deposed. For the Lord said not, ‘Baptize into my death,’ but, ‘Go teach all nations, baptizing them in the name of the Father, and of the Son, and of the Holy Ghost.’”

SECT. X.—5. *For not frequenting divine Service daily.*

5. If any clergyman neglected to frequent the Church and divine service daily, even when he did not officiate or celebrate himself, he was liable to be deposed, if after admonition he

Joannis evangelistæ esse perscribunt, et inter divinos libros recipiendum [hic deest aliquid] atque in ecclesia Dei prædicare contemnunt. Si quis eum deinceps aut non receperit, aut a pascha usque ad Pentecosten missarum tempore in ecclesia non prædicaverit, excommunicationis sententiam habebit.

^a Can. Apost. xlix. (al. xli.) (Labbé, vol. i. p. 36.) *Εἰ τις ἐπίσκοπος, ἡ πρεσβύτερος, κατὰ τὴν τοῦ Κυρίου διάταξιν μὴ βαπτίσῃ εἰς Πατέρα, καὶ Υἱόν, καὶ Ἅγιον Πνεῦμα, ἀλλ’ εἰς τρεῖς ἀνάρχους, ἡ τρεῖς υἱούς, ἡ τρεῖς παρακλήτους, καθαιρεῖσθω.*

¹ Can. Apost. xlix. (Labbé, vol. i. p. 36.) *Εἰ τις ἐπίσκοπος, ἡ πρεσβύτερος, μὴ τρία βαπτίσματα μιᾷς μυστήσεως ἐπιτελέσῃ, ἀλλ’ ἐν βάπτισμα [τὸ] εἰς τὸν θάνατον τοῦ Κυρίου διδόμενον, καθαιρεῖσθω· οὐ γὰρ εἶπεν ὁ Κύριος, Εἰς τὸν θάνατόν μου βαπτίζετε· ἀλλὰ, Πορευθέντες, κ. τ. λ.*

persisted obstinately in his contempt. To this purpose it is decreed by the first Council of Toledo,^b “That if any presbyter, deacon, or subdeacon, or other clerk deputed to the service of the Church, being in any city or place where there is a Church, or castle, or village, or hamlet, shall neglect to come to Church and the daily sacrifice, he shall be no longer accounted a clerk; unless, upon admonition from the bishop, he make satisfaction, and obtain pardon for his offences.” The Council of Agde reduces^c such to the communion of strangers; that is, suspends them from their office: and the law of Justinian^d orders them to be degraded, because of the scandal they give to the laity by such neglect or contempts of divine service.

SECT. XI.—6. *For meddling with secular Offices.*

6. If any clergyman entangled and embarrassed himself in secular offices, because this was an unnecessary avocation from his own employment, and hindrance to the proper business of his calling, he was liable to be deposed. “No bishop or presbyter,” says one of the Apostolical Canons,^e “shall thrust himself *εις δημοσίας διοικήσεις*, into any public administrations or employments; but keep himself always in a readiness for the service of the Church. Let him therefore either incline his mind not to do this, or let him be deposed. For no man can serve two masters, according to what the Lord appointed.”

^b Concil. Tolet. I. c. v. (Labbé, vol. ii. p. 1224.) Presbyter, vel diaconus, vel subdiaconus, vel quilibet ecclesiæ deputatus clericus, si intra civitatem fuerit, vel in loco in quo ecclesia est, aut castello(*a*), aut vico(*i sunt*), aut villa, et ad ecclesiam *ad (aut)* sacrificium quotidianum non ven-access-erit, clericus non habeatur, si castigatus, per satisfactionem veniam ab episcopo noluerit promereri.

^c Conc. Agath. c. ii. (Labbé, vol. iv. p. 1383.) Contumaces clerici, prout dignitatis ordo permiserit, ab episcopis corrigantur: et si qui prioris gradus, elati superbia, communionem fortasse contemserint, aut ecclesiam frequentare, vel officium suum implere neglexerint, peregrina eis communio tribuatur: ita ut, quum eos poenitentia correxerit, rescripti in matricula gradum suum dignitatemque recipiant.

^d Cod. Justin. lib. i. tit. iii. de Episcopis, leg. xlii. § x. (Amstel. 1663. p. 18.) Τοὺς μὴ εὐρισκομένους ἀμέμπτως ταῖς λειτουργίαις προσκαρτεροῦντας ἔξω τοῦ κλήρου καθίστασθαι.

^e Can. Apost. lxxx. (Labbé, vol. i. p. 43.) “Ὅτι οὐ χρὴ ἐπίσκοπον καθ-
ίεναι ἑαυτὸν εἰς δημοσίας διοικήσεις, ἀλλὰ προσευκαθεῖν ταῖς ἐκκλησιαστικαῖς
χρεῖαις· ἢ πιθεῖσθω οὖν τοῦτο μὴ ποιεῖν, ἢ καθαρεῖσθω· οὐδεὶς γὰρ δύναται
δύο κυρίους δουλεύειν, κατὰ τὴν κυριακὴν παρακείμενιν.

And another canon^f says, “A bishop, presbyter, or deacon, that employs himself in a military life, and would retain both a Roman office and an ecclesiastical function together, shall be deposed. For we must render to Cæsar the things that are Cæsar’s, and to God the things that are God’s.” The first Council of Carthage^g forbids clergymen to take upon them the administration or stewardship of any houses, because the Apostle says, ‘No man that warreth in God’s service, entangleth himself in the affairs of this life.’ Therefore clergymen must either quit their stewardships, or stewards their clerical office. But because necessity or charity might seem to require clergymen to engage a little in secular affairs in some special cases, the Council of Chalcedon^h delivers the rule with some distinction: “Whereas we are informed, that some of the clergy, for filthy lucre’s sake, hire other men’s possessions, and exercise themselves in worldly affairs, neglecting the service of God, living in the houses of secular men, and taking upon them the management of their estates out of covetousness and the love of money; the holy synod decrees, that henceforth no bishop, clergyman, or monk, shall either hire any possessions or put himself into any secular administrations, unless by the law he be called to the unavoidable

^f Ibid. can. lxxxii. (Labbé, vol. i. p. 44.) Ἐπίσκοπος, ἢ πρεσβύτερος, ἢ διάκονος, στρατεία σχολάζων, καὶ βουλόμενος ἀμφοτέρω κατέχειν, Ῥωμαϊκὴν ἀρχὴν καὶ ἱερατικὴν διοίκησιν, καθαιρεῖσθω· τὰ γὰρ Καίσαρος, Καίσαρι· καὶ τὰ τοῦ Θεοῦ, Θεῷ. Vide can. vii. ibid. Κοσμικὰς φροντίδας μὴ ἀναλαμβάνετω· εἰ δὲ μὴ, καθαιρεῖσθω.

^g Concil. Carth. I. c. vi. (Labbé, vol. ii. p. 616.) Non accedant ad actus seu administrationem vel procuracionem domorum.

^h Concil. Chalcedon. can. iii. (Labbé, vol. iv. p. 755.) Ἦλθεν εἰς τὴν ἁγίαν σύνοδον, ὅτι τῶν ἐν τῇ κλήρῳ κατελειγμένων τινὲς δι’ οἰκίαν αἰσχροκερδίαν ἀλλοτρίων κτημάτων γίνονται μισθωταί, καὶ πράγματα κοσμικὰ ἐργολαβοῦσι, τῆς μὲν τοῦ Θεοῦ λειτουργίας καταβράθυμουντες, τοὺς δὲ τῶν κοσμικῶν ὑποτρέχοντες οἴκους, καὶ οὐσιῶν χειρισμοὺς ἀναδεχόμενοι διὰ φιλαργυρίαν· ὥρισε τοίνυν ἡ ἁγία σύνοδος, μηδένα τοῦ λοιποῦ, μὴ ἐπίσκοπον, μὴ κληρικόν, μὴ μονάζοντα, ἢ μισθοῦσθαι κτήματα, ἢ πράγματα, ἢ ἐπιδάγειν ἑαυτὸν κομμικαῖς διοικήσεσι· πλὴν εἰ μὴ που ἐκ νόμων καλοῖτο εἰς ἀφηλίκων ἀπαραίτητον ἐπιτροπὴν, ἢ ὁ τῆς πόλεως ἐπίσκοπος ἐκκλησιαστικῶν ἐπιτρέψοι φροντίζειν πραγμάτων, ἢ ὁρφανῶν, καὶ χηρῶν ἀπρονοήτων, καὶ τῶν προσώπων τῶν μάλιστα τῆς ἐκκλησιαστικῆς δεομένων βοήθειας, διὰ τὸν φόβον τοῦ Κυρίου· εἰ δὲ τις παραβαίνειν τὰ ὠρισμένα τοῦ λοιποῦ ἐπιχειρήσῃ, ὁ τοιοῦτος ἐκκλησιαστικὸς ὕποκεισθω ἐπιτιμίας.

care or guardianship of orphans ; or the bishop of the place permit him to be the procurator of the Church revenues, or to take the care of widows and orphans, and such other helpless persons as need the assistance of the Church, which may be done in the fear of the Lord. If any one henceforward transgress these rules, he shall be liable to ecclesiastical censure." There are many other laws forbidding them to be sureties, or pleaders at the bar for themselves or others in any civil contest, or to follow any secular trade or merchandize ; but these with some limitations and exceptions ; of all which, because I have had occasion to discourse more fully in a former¹ book, I need say no more in this place.

SECT. XII.—7. *For deserting their own Church without Licence, to go to another.*

7. It was another crime of the like nature, for a clergyman to desert and relinquish his own Church, to which he was originally fixed and appointed by his ordination, without licence from the bishop to whose jurisdiction he belonged. For though this was not properly an absolute and universal renunciation and desertion of the Church's service ; yet it was a manifest breach of good order, and a transgression of an useful rule established by often repeated injunctions over the Church universal, " That no clerk should leave his own bishop's Church or diocese without his consent, nor find reception in any other, to the prejudice of the bishop who first ordained him." " If any presbyter, deacon, or other clerk," say the Apostolical Canons,¹ " forsake his own diocese to go to another, and there continue without the consent of his own bishop ; we decree, that such an one shall no longer continue to minister as a clerk (especially if after admonition he refuse to return),

¹ Book vi. chap. iv. § ix. x. xi. seq. vol. ii. p. 191.

¹ Can. Apostol. xiv. (al. xv. xvi.) (Labbé, vol. i. p. 28.) Ἐἰ τις πρεσβύτερος, ἢ διάκονος, ἢ ὅλως τοῦ καταλόγου τῶν κληρικῶν, ἀπολείψας τὴν ἑαυτοῦ παροικίαν, εἰς ἑτέραν ἀπέλθῃ, καὶ παντελῶς μεταστὰς διατρίβῃ ἐν ἄλλῃ παροικίᾳ παρὰ γνώμην τοῦ ἰδίου ἐπισκόπου· τοῦτον κελεύομεν μηκέτι λειτουργεῖν, μάλιστα, εἰ προσκαλουμένου αὐτὸν τοῦ ἐπισκόπου αὐτοῦ ἐπανελθεῖν, οὐχ ὑπήκουσεν, ἐπιμένων τῇ ἀταξίᾳ· ὡς λαϊκὸς μὲν τοι ἐκείσε κοινωνεῖτω· εἰ δὲ ὁ ἐπίσκοπος, παρ' ᾧ τυγχάνουσι, παρ' οὐδὲν λογισάμενος τὴν κατ' αὐτῶν ὀρθοθεΐσαν ἀργίαν, δέξεται αὐτοὺς ὡς κληρικοὺς, ἀφοριζέσθω ὡς διδάσκαλος ἀταξίας.

but only be admitted to communicate as a layman. And if the bishop, to whom they repair, shall entertain them in the quality of clergymen, he shall be excommunicated, as a master of disorder." The same rule is frequently repeated in the ancient canons, to which I have referred the reader¹ in another place.

SECT. XIII.—8. *For officiating after the Condemnation of a Synod.*

8. If any clergyman pretended to officiate after he was censured and condemned by a synod, before he was absolved by that or another synod, he was to be deposed for his contempt, without hopes of restitution. This was first decreed in the Apostolical Canons: "If any bishop,^k presbyter, or deacon, who is justly deposed for his crimes, presume to meddle with the service belonging to his order, let him be wholly cut off from the communion of the Church." The Council of Antioch¹ repeats this rule a little more explicitly: "If any bishop, who is deposed by a synod, or presbyter or deacon, who is deposed by his own bishop, presume to officiate in their ministry; they shall have no hopes of being restored even by another synod, nor any room left for satisfaction: and all that communicate with them, shall be cast out of the Church, especially if they do it after they are apprized of the sentence pronounced against them." This canon is repeated and confirmed by the great Council of Chalcedon,^m as a

¹ Book vi. c. iv. § iv. vol. ii. p. 179. seqq.

^k Can. Apostol. xxvii. (Labbé, vol. i. p. 29.) Εἰ τις ἐπίσκοπος, ἢ πρεσβύτερος, ἢ διάκονος, καθαιρεθεὶς δικαίως ἐπὶ ἐκλήμασι φανεροῖς, τολμήσειεν ἄψασθαι τῆς ποτὲ ἐγχειρισθείσης αὐτῷ λειτουργίας· οὗτος παντάπασιν ἐκκοπτιέσθω τῆς ἐκκλησίας.

¹ Concil. Antioch. can. iv. (Labbé, vol. ii. p. 564.) Εἰ τις ἐπίσκοπος ὑπὸ συνόδου καθαιρεθεὶς, ἢ πρεσβύτερος, ἢ διάκονος ὑπὸ τοῦ ἰδίου ἐπισκόπου, τολμήσειεν τι πράξει τῆς λειτουργίας, εἴτε ὁ ἐπίσκοπος κατὰ τὴν προάγουσαν συνηθειαν, εἴτε ὁ διάκονος· μηκέτι ἐξὸν εἶναι αὐτῷ, μηδ' ἐν ἐτέρᾳ συνόδῳ ἑλπίδα ἀποκαταστάσεως, μήτε ἀπολογίας χῶραν ἔχειν· ἀλλὰ δὲ τοὺς κοινωνοῦντας αὐτῷ πάντας ἀποβάλλεσθαι τῆς ἐκκλησίας, καὶ μάλιστα εἰ μαθόντες τὴν ἀπόφασιν τὴν κατὰ τῶν προειρημένων ἐξενεχθεῖσαν τολμήσειαν αὐτοῖς κοινωνεῖν.

^m Concil. Chalced. act. iv. (Labbé, tom. iv. p. 538.)

standing rule then inserted into the code of the universal Church.

SECT. XIV.—9. *For appealing from the censure of a provincial Synod to foreign Churches.*

9. In this case, the Church allowed of appeals, that if any one was injured or oppressed by any rash or violent proceeding, he might have justice done him in a provincial synod. But then this liberty of appeals was limited to the place or province where the party lived; and he might not fly to another country, under pretence of more impartial justice. The bishops of Rome, indeed, sometimes laid claim to a peculiar prerogative in this matter, as if they had power to receive appellants from other Churches, and hear and determine the causes arising in foreign countries at the greatest distance and under different jurisdictions: but St. Austin and the African Fathers stoutly opposed these encroachments; and withal made a decree, that “if any African clerk appealed from the sentence of his own bishop, or a synod of select judges, he should appeal to none but African synods, or the primates of the provinces. And if any presumed to appeal *beyond seas*, [meaning to Rome,] he should be excluded from all communion in the African Churches.” This decree was first made in the Council of Milevis,ⁿ and afterward confirmed by several acts of their general synods, made upon the famous case and appeal of Apiarius, an African presbyter, whom Pope Zosimus pretended to restore to communion, after he had been deposed by an African council. What opposition the African Fathers made to this presumption, during the lives of three popes successively, Zosimus, Boniface, and Celestin, and what arguments they went upon, I have formerly showed out of the

ⁿ Concil. Milevitan. c. xxii. (Labbé, vol. ii. p. 1542.) Placuit, ut presbyteri, diaconi, vel ceteri inferiores clerici, in causis quas habuerint, si de judiciis episcoporum suorum questi fuerint, vicini episcopi eos audiant, et inter eos, quidquid est, finiant, adhibiti ab eis ex consensu episcoporum suorum. Quod si et ab eis provocandum putaverint, non provocent nisi ad Africanam concilia, vel ad primates provinciarum suarum. Ad transmarina autem qui putaverint appellandum, a nullo intra Africam in communionem suscipiantur.

canons of the African¹ code: and I only note it here with all brevity, to explain the ancient discipline in this point, from the current tenour and practice of the Church.

SECT. XV.—10. *For the refusing to end Controversies before Bishops, and flying to a secular Tribunal.*

10. Another thing which subjected clergymen to ecclesiastical censure, was refusing to end their controversies before bishops, and choosing rather to fly to the secular tribunals. The laws of the state permitted, and the laws of the Church obliged them to bring all their disputes with one another, under the cognizance of an ecclesiastical tribunal. I have had occasion once before² to speak of this as a privilege and immunity granted to the clergy by the imperial laws; and all I shall remark further concerning it here, is only what relates to the discipline of the Church: in reference to which the Council of Chalcedon^o decreed, “That if any clergyman had a controversy with another, he should not leave his own bishop, and betake himself to a secular court; but first have a hearing before his own bishop, or such arbitrators as the parties should choose, with the bishop’s approbation: otherwise he should be liable to canonical censure:” which censure in the African Church was the loss of his place, whether he were bishop, presbyter, or deacon, or any other inferior clerk, that declined the sentence of an ecclesiastical court, in a criminal cause, and betook himself to a secular court of justice: or if it was a civil cause, he must lose whatever advantage he gained by the

¹ Cod. Afric. cxxxv. cxxxvi. cxxxvii. cxxxviii. See book ix. chap. i. § xi. vol. iii. p. 23. seqq.

² Book v. chap. i. § iv. vol. ii. p. 6.

^o Concil. Chalced. c. ix. (Labbé, vol. iv. p. 759.) Εἰ τις κληρικὸς πρὸς κληρικὸν πρῶγμα ἔχοι, μὴ καταλιμπανέτω τὸν οἰκείον ἐπίσκοπον, καὶ ἐπὶ κοσμικὰ δικάστηρια κατατρεχέτω· ἀλλὰ πρότερον τὴν ὑπὸθεσιν γυμναζέτω παρὰ τῷ ἰδίῳ ἐπισκόπῳ, ἢ γοῦν γνώμῃ αὐτοῦ τοῦ ἐπισκόπου, παρ’ οἷς ἂν τὰ ἀμφοτέρα μέρη βούλεται, τὰ τῆς δίκης συγκροτήσειτω· εἰ δὲ τις παρὰ ταῦτα ποιήσῃ, κανονικοῖς ὑποκείσθω ἐπιτιμίαις.—Vide Conc. Venetic. c. ix. Clericis, nisi ex permissu episcoporum suorum, sæcularia judicia adire non liceat. Sed si quis fortassis episcopi sui iudicium cœperit habere suspectum, aut ipsi de proprietate aliqua adversus ipsum episcopum fuerit nata contentio, aliorum episcoporum audientiam, non sæcularium potestatum, debet ambire. Aliter a communi-one habeatur alienus.

action, as the third Council of Carthage determined^p in the case; because he despised the whole Church, in that he could not confide in any ecclesiastical persons to be his judges. The Council of Milevis added to this,^q that “no clergyman should so much as petition the emperor to assign him secular judges in any case, but only ecclesiastical, under pain of deprivation.” And this seems to be the true meaning of those two famous canons of the Council of Antioch, which have been so generally mistaken by modern authors, as if they had been made only by a cabal of Arians against the person of Athanasius; when indeed they contain nothing but an ancient rule of discipline universally observed throughout the Church. The words of the canons are these: “If any bishop, or presbyter, or any one^r within the canon, or roll of the clergy belonging to the Church, shall presume to address the emperor without the consent and letters of the provincial bishops, and especially of the metropolitan; he shall be rejected and expelled, not only from communion, but from whatever honour and dignity he enjoys, as one that fills the prince’s ears with troublesome complaints, against the law of the Church. But if any necessary

^p Concil. Carth. iii. c. ix. (Labbé, vol. ii. p. 1168.) Placuit, ut quisquis episcoporum, presbyterorum, et diaconorum, seu clericorum, quum in ecclesia ei crimen fuerit intentatum, vel civilis causa fuerit commota, si relicto ecclesiastico judicio, publicis judiciis purgari voluerit, etiam si pro ipso fuerit prolata sententia, locum suum amittat, et hoc in criminali judicio. In civili vero perdat, quod eiecit, si locum suum obtinere voluerit. Cui enim ad eligendos judices undique patet auctoritas, ipse se indignum fraterno consortio iudicat, qui de universa ecclesia male sentiendo, de judicio sæculari poscit auxilium, quum privatorum Christianorum causas apostolus ad ecclesiam deferri, atque ibi determinari præcipiat.

^q Concil. Milevit. c. xix. (Labbé, vol. ii. p. 1542.) Quicumque ab imperatore cognitionem judiciorum publicorum petierit, honore proprio privetur. Si autem episcopale judicium ab imperatore postulaverit, nihil ei obsit.

^r Concil. Antioch. c. xi. (Labbé, vol. ii. p. 565.) Εἰ τις ἐπίσκοπος, ἡ πρεσβύτερος, ἢ ὅλως τοῦ κανόνος, ἀνευ γνώμης καὶ γραμμάτων τῶν ἐν τῇ ἐπαρχίᾳ ἐπισκόπων, καὶ μάλιστα τοῦ κατὰ τὴν μητρόπολιν, ὀρμήσειεν πρὸς βασιλεῖα ἀπελθεῖν, τοῦτον ἀποκηρύττεσθαι καὶ ἀπόβλητον γίνεσθαι, οὐ μόνον τῆς κοινωρίας, ἀλλὰ καὶ τῆς ἀξίας, ἧς μετέχων τυγχάνει, ὡς παρενοχλεῖν τολμῶντα τὰς τοῦ θεοφιλεστάτου βασιλείως ἡμῶν ἀκοάς, παρὰ τὸν θεσμόν τῆς ἐκκλησίας· εἰ δὲ ἀναγκαῖα καλοῖη χρεῖα δὲ βασιλεῖα ὀρμᾶν, τοῦτο πράττειν μετὰ σέψεως καὶ γνώμης τοῦ κατὰ τὴν μητρόπολιν τῆς ἐπαρχίας ἐπισκόπου, ἡ τῶν ἐν αὐτῇ, τοῖς τε τοῦτων γράμμασιν ἐφοδιάζεσθαι.

cause call him to address the prince, he shall do it by the advice and consent of the metropolitan and the rest of the provincial bishops, who, in that case, shall assist him with their recommendatory letters also." The other canon^s says, "If any presbyter or deacon is deposed by his bishop, or any bishop by a synod; he shall not presume to trouble the emperor with complaints, but have recourse to a greater synod of bishops, and lay the justice of his cause before them, and wait for their discussion and determination. But if, in contempt of this method, he trouble the prince, he shall have no pardon, nor room for defence, nor any hopes of restitution." The generality of modern writers, following the censure passed upon this canon by the famous Antonius Augustinus,^t and Baronius,^u commonly reckon it a canon made by the Arian faction against Athanasius; and say, it is the same canon that was alleged against Chrysostom by his adversaries, and rejected by him and his advocates, as an Arian canon, in the following ages. But the learned Schelstrate, who has particularly vindicated the authority of the Council of Antioch,^v shows this to be a vulgar error; demonstrating, that the

^s Ibid. c. xii. (pag. 567.) Εἰ τις ὑπὸ τοῦ ἰδίου ἐπισκόπου καθαιρεθεὶς πρεσβύτερος, ἢ διάκονος, ἢ καὶ ἐπίσκοπος ὑπὸ συνόδου, ἐνοχλῆσαι τολμήσειε τὰς βασιλικὰς ἀκοὰς, δέον ἐπὶ μείζονα ἐπισκόπων σύνοδον τρέπασθαι, καὶ ἃ νομίζει δίκαια ἔχειν, προσαναφέρειν πλείοσιν ἐπισκόποις, καὶ τὴν αὐτῶν ἐξέτασιν τε καὶ ἐπίκρισιν ἐκδέχεσθαι· εἰ δὲ τούτων ὀλιγώρησας, ἐνοχλήσειεν τῷ βασιλεῖ, καὶ τοῦτον μηδεμίᾳ συγγνώμῃς ἀξιοῦσθαι, μηδὲ χώραν ἀπολογίας ἔχειν, μηδὲ ἐλπίδα ἀποκαταστάσεως προσδοκᾶν.

^t Anton. August. de emendatione Gratiani lib. i. dial. xi. p. 123. Hoc esse caput arbitror contra B. Athanasium scriptum, quod reprehendit Julius in epistola ad hos eosdem episcopos Antiochiæ congregatos; idem contra Joannem Chrysostomum dum objiceretur, ab eo responsum est, hæreticorum canonem fuisse.

^u Baron. an. cccxli. n. xxviii. (al. xxx.) Hic canon adversus Athanasium, ut apparet, editus; quippe quem dicerent Eusebiani, litteris tantum imperatoris subnixum, qui depositus fuerat in conciliabulo Tyrio, in suam ecclesiam Alexandrinam reversum esse. Quum igitur idem ipse canon adversus Joannem Chrysostomum ab ejus adversariis adduceretur; qui ipsum defendebant, libera voce dicebant, canonem ab Arianis sancitum et per Sardicense concilium pēnitus esse sublatum, atque irritum omnino redditum, etc.

^v Schelstrate. de Concilio Antioch. p. 541. Gravem peritorum errorem primum aperui parte II. Antiquitatis Illustratæ, ubi canonem a Theophilo quondam D. Chrysostomo objectum, quem Socrates, Sozomenus, Georgius patriarcha Alexandrinus, aliique in odium D. Athanasii ab Arianis confectum testantur, in

Arian canon was very different from this ; and that this canon of Antioch was conformable to the received discipline of the ancient Church. For, as such, it was inserted into the code of the universal Church, and acknowledged by the Council of Chalcedon, and all the collectors of the canons, Ferrandus Diaconus, Martin Bracarensis, and the capitulars of Charles the Great. Besides that the Council of Vannes ^x has a canon to the same purpose : “ If a clerk suspects the judgment of his own bishop, or has any controversy with him concerning any property, he shall require an hearing before other bishops, and not before the secular powers : otherwise he shall be cast out of communion.” From all which it is plain, nothing more was intended by the Council of Antioch, but only to oblige clergymen to end all their controversies before a synod of bishops, which is agreeable to the general rule and discipline of the Church.

SECT. XVI.—11. *For being re-baptized or re-ordained.*

11. The laws of the Church were further severe against all re-ordinations in the clergy, and against all re-baptizations both in clergymen and laymen : and therefore any clergyman who submitted either actively or passively to either of these,

medium attuli ex Palladio Helenopolitano episcopo, ipsius Joannis Chrysostomi discipulo, et est sequens : ‘ Si quis episcopus aut presbyter, sive juste sive injuste depositus, ex se ipso absque synodo in ecclesiam redierit, hic jam excusationis non habeat locum, sed omnino expellatur.’ Hic quondam oculos lectoris advocabam, nunc fidem peritorum omnium expeto, an post adductum e tenebris canonem illum, quem Chrysostomus, Innocentius, alique antiquiores ab Arianis promanasse judicabant, quisquam inveniri possit, qui eum canonem inter Antiochenos duodecimum merito sustineat ? Tantum re vera abest, cuiquam videri id ulterius posse, ut neminem posthac inveniri existimem, quin exclamaturus sit, utrumque canonem toto coelo differre. Canon a Chrysostomo rejectus agit de illis, qui, damnati juste vel injuste, sine nova synodo sedem suam recuperant : canon vero xii. Antiochenus agit de illis, qui depositi imperatoris auribus molestiam adferunt ; ut evidens sit, canones illos eadem de re non egisse, multo minus eodem sensu idem pertractasse, etc.

^x Concil. Venetic. can. ix. Clericus, si fortasse episcopi sui judicium coeperit habere suspectum, aut ipsi de proprietate aliqua adversus ipsum episcopum fuerit nata contentio, aliorum episcoporum audientiam, non sæcularium potestatum, debet ambire. Aliter a communione habebitur alienus.

rendered himself obnoxious to the highest censure. "If any bishop, presbyter, or deacon," say the Apostolical Canons,^y "receive a second ordination, both the ordainer and the ordained shall be deposed; except it appear that his first ordination was given him by heretics: for they that are baptized or ordained by heretics, are neither to be accounted clergymen nor faithful laymen." Optatus^z says, that among other reasons why Donatus was condemned and deposed by the Council of Rome under Melchiades, this was one, "That he had given 'imposition of hands' to such bishops as had lapsed in time of persecution; which was contrary to the custom of the Catholic Church." If 'imposition of hands' there signify ordination, then his crime was that he had re-ordained them; but if, as Albaspinæus¹ thinks both in his Notes and Observations, it only means 'imposition of hands in penance,' then we are to lay no stress upon it, because it relates to a different subject. As to re-baptization, the case was the same: the Apostolical Canons^a appointed, "That if any bishop or presbyter presumed to give a second baptism after a true one once received, he should be degraded." And the Council of Rome under Felix III. decreed, "That if a bishop, presbyter, or deacon, suffered himself to be so re-baptized,^b he should be

^y Can. Apost. lxxvii. (Labbé, vol. i. p. 40.) *Εἰ τις ἐπίσκοπος, ἡ πρεσβύτερος, ἡ διάκονος, δευτέραν χειροτονίαν δίδεται παρὰ τινος, καθαιρεῖσθω καὶ αὐτός, καὶ ὁ χειροτονήσας· εἰ μὴ γέ ᾗρα συστραίη, ὅτι [εἰ μὴ δείξοι,] παρὰ αἱρετικῶν [αὐτὸν ἔχειν] ἔχει τὴν χειροτονίαν· τοὺς γὰρ παρὰ τῶν τοιούτων βαπτισθέντας, ἡ χειροτονηθέντας, οὔτε πιστοὺς, οὔτε κληρικοὺς εἶναι δυνατόν.*

^z Optat. lib. i. p. 44. (p. 27, edit. Paris. 1679.) In Donatum sunt hæ sententiæ latæ; quod confessus sit, se rebaptizasse et episcopis lapsis manum imposuisse: quod ab ecclesia alienum est.

¹ Albaspin. in loc. De poenitentiae manus impositione, non autem de reordinatione, hæc verba explicanda esse, docuimus in Observationibus.

^a Can. Apost. xlii. (Labbé, vol. i. p. 35.) *Εἰ τις ἐπίσκοπος ἡ πρεσβύτερος τὸν κατὰ ἀλήθειαν ἔχοντα βάπτισμα, ἐὰν ἄνωθεν βαπτίσῃ . . . καθαιρεῖσθω.*

^b Vide Felice. Epist. i. c. ii. (epist. vii. ad universos episcopos, Labbé, vol. iv. p. 1076. B.) Ut ab ecclesiæ summitatibus inchoemus, eos quos episcopos, presbyteros, vel diaconos fuisse constiterit, et seu optantes forsitan, seu coactos lavacri illius unici salutarisque claruerit fecisse jacturam, et Christum, quem non solum dono regenerationis, verum etiam gratia percepti honoris induerant, exuisse, quum constet neminem ad secundam tinctionem venire potuisse, nisi palam se Christianum negaverit, et professus fuerit se esse paganum. Quod quum gene-

degraded, and do penance all his life, without being suffered to communicate either in the prayers of the faithful, or the prayers of the Catechumens, and only be admitted to lay-communion at the hour of death ; because such had not only denied their orders, but their Christianity, and openly professed themselves Pagans, by being re-baptized.” The civil law confirmed these censures of the Church, and added some temporal penalties, to give them greater force ; of which the reader may find a more particular account in a former¹ book.

SECT. XVII.—12. *For denying themselves to be Clergymen.*

12. It was a crime of the like nature for any clergyman to deny his order in words, or dissemble his profession before a Jew or a heathen ; because this was but one degree below the renunciation of his religion. “ If any clergyman,” says one of the Apostolical Canons,^c “ through human fear of a Jew, or a heathen, or a heretic, deny the name of Christ, let him be cast out of the Church : if he deny the name of a clergyman, let him be deposed ; but upon his repentance, let him be received as a layman.”

SECT. XVIII.—13. *For publishing apocryphal Books.*

13. If any clergyman was convict of publishing any apocryphal books, or books written by impious men under false titles, as sacred and pious writings, to the corruption and seducement both of laity and clergy ; by another of the Apostolical Canons,^d

raliter sit in omnibus execrandum, multo magis in episcopis, presbyteris, diaconibus auditu saltem dictuque probatur horrendum. Sed quia idem Dominus atque Salvator clementissimus est, et neminem vult perire, usque ad exitus sui diem in pœnitentia (si respiciunt) jacere conveniet: nec orationi non modo fidelium, sed ne catechumenorum omnimodis interesse, quibus communio laica tantum in morte reddenda est. Quam rem diligentius explorare vel facere probatissimi sacerdotis cura debet.

¹ Book xii. chap. v. § vii. vol. iv. p. 68. seqq.

^c Can. Apost. lxi. (Labbé, vol. i. p. 40.) Εἴ τις κληρικὸς διὰ φόβον ἀνθρώπων, Ἰουδαίου, ἢ Ἑλλήνος, ἢ αἰρετικοῦ, ἀρνήσῃται· εἰ μὲν ὄνομα Χριστοῦ, ἀποβαλλέσθω [ἀφορίζεσθω]· εἰ δὲ καὶ τὸ ὄνομα τοῦ κληρικοῦ, καθαιρείσθω· μετανοήσας δὲ, ὡς λαϊκὸς δεχθήτω.

^d Ibid. lix. (Labbé, vol. i. p. 37.) Εἴ τις τὰ ψευδεπίγραφα τῶν ἀσέβων βιβλία, ὡς ἄγια, ἐπὶ τῆς ἐκκλησίας δημοσιεύει, ἐπὶ λύμῃ τοῦ λαοῦ καὶ τοῦ κλήρου, καθαιρείσθω.

he was to be deposed. Tertullian gives an instance of the exercise of discipline in this case^e upon an Asiatic presbyter, who wrote the book called 'The Acts of Paul and Thecla,' under the feigned name of the Apostle. He pleaded in his own behalf, that he did it out of love to St. Paul; but this would not satisfy the Church; for upon conviction and confession of the fact, she obliged the man to quit his office for his transgression.

SECT. XIX.—14. *For superstitious Abstinence from Flesh, Wine, &c.*

14. Clergymen were likewise liable to be deposed for any superstitious abstinence from flesh, wine, marriage, or any the like innocent and lawful things; when they refrained from them, not for exercise sake, but out of a false and heretical opinion that they were polluted and unclean. There was always a grand dispute about meats and marriage between the Church and several sects, that opposed her continually upon this point. Many heretics, such as the Manichees, Priscillians, and others, pretended to be more spiritual and refined, because they abstained from wine and flesh as things unlawful and unclean; and upon this score, censured the Church as impure and carnal, for allowing men in the just and moderate use of them. If any clergymen therefore so far complied with heretics, as either in their judgment to approve their errors, or in their practice by a universal abstinence to give suspicion of their siding with them; they made themselves obnoxious to the highest censures. The Apostolical Canons order, that "if any bishop, presbyter, or deacon,^f or any other clerk, ab-

^e Tertull. de Baptismo, c. xvii (Paris. 1664. p. 231. B 3.) Quod si quæ (mulieres) Paulo perperam adscripta sunt, ad licentiam mulierum docendi tinguendique defendunt; sciant in Asia presbyterum, qui eam scripturam construxit, quasi titulo Pauli de suo cumulans, convictum atque confessum id se amore Pauli fecisse, loco decessisse.

^f Can. Apost. l. (Labbé, vol. i. p. 37.) Εἴ τις ἐπίσκοπος, ἢ πρεσβύτερος, ἢ διάκονος, ἢ ἕλως τοῦ καταλόγου τοῦ ἱερατικοῦ, γάμων καὶ κρεῶν καὶ οἴνου, οὐ δι' ἄσκησιν, ἀλλὰ διὰ βδελυρίαν ἀπέχεται, ἐπιλαθόμενος, ὅτι παντὰ κατὰ λίαν, καὶ ὅτι ἄρσεν καὶ θῆλυ ἐποίησεν ὁ Θεὸς τὸν ἄνθρωπον, ἀλλὰ βλασφημῶν διαβάλλει τὴν δημιουργίαν, ἢ διορθοῦσθω, ἢ καθαίρεισθω καὶ τῆς ἐκκλησίας ἀποβαλλίσθω ὡσαύτως καὶ λαϊκός.

stain from marriage, flesh, or wine, not for exercise but abhorrence ; forgetting, that God made all things very good, and created man male and female, and speaking evil of the workmanship of God ; unless he correct his error, he shall be deposed, and cast out of the Church." Another canon ^g gives the reason of this censure ; " because such an one has a seared conscience, and is the cause of scandal to the people." The Council of Ancyra ^h condemns the same error, and inflicts the like penalty of degradation upon any clergymen that should be found guilty of it. And in the first Council of Braga, an order was made, that all clergymen who abstained from flesh, should sometimes eat herbs boiled with flesh, to avoid the suspicion of the Priscillian heresy. And if they refused to do this, they should be excommunicated, and removed ⁱ from their office, according to the direction of the ancient canons, as men suspected of that heresy, which then reigned in the Spanish Churches.

SECT. XX.—15. *For eating of Blood.*

15. But on the other hand, because it was the custom of the Catholic Church, almost till the time of St. Austin, to abstain from eating of blood, in compliance with the rule given by the Apostles to the Gentile converts ; therefore by the most ancient laws of the Church, all clergymen were obliged to abstain from it under pain of degradation. This is evident

^g Ibid. can. lii. (al. xlv.) (Labbé, vol. i. p. 37.) Εἴ τις ἐπίσκοπος, ἢ πρεσβύτερος, ἢ διάκονος, ἐν ταῖς ἡμέραις τῶν ἑορτῶν οὐ μεταλαμβάνει κρεῶν καὶ οἶνου, βδελυσσόμενος, καὶ οὐ δι' ἄσκησιν, καθαιρείσθω, ὡς κεκαυτηριασμένος τῇν ἰδίαν συνείδησιν, καὶ αἰτίως σκανδάλου πολλοῖς γινόμενος.

^h Concil. Ancyran. c. xiv. (Labbé, vol. i. p. 1461.) Τοὺς ἐν κλήρῳ πρεσβυτέρους, ἢ διακόνους ὄντας, καὶ ἀπεχομένους κρεῶν, ἐδοξεν ἐφάπτεσθαι, καὶ οὕτως, εἰ βούλονται, κρατεῖν ταυτῶν· εἰ δὲ βούλονται ὡς μηδὲ τὰ μετὰ κρεῶν βαλλόμενα λάχανα ἐσθίειν, καὶ εἰ μὴ ὑπέκειεν τῷ κανόνι, πεπαῦσθαι αὐτοὺς τῆς τάξεως.—See note (l) in following page.

ⁱ Concil. Bracar. I. c. xxxii. (Labbé, II. c. xiv. tom. v. p. 841.) Placuit, ut quicumque in clero cibo carnum non utuntur, pro amputanda suspicione Priscillianæ hæresis, vel olera cocta cum carnibus tantum prægustare cogantur. Quod si contemserint, secundum quod de his talibus sancti patres antiquitus statuerunt, necesse est, eos, pro suspicione hæresis hujus, officio excommunicatos omnibus modis removeri.

from the Apostolical Canons,^k and those of Gangra,^l and the second Council of Orleans,^m and the Council of Trullo.ⁿ But as this was looked upon by some only as a temporary injunction, so it appears from St. Austin,^o that, in his time, it was of no force in the African Church. For he says, “in his time, few men thought themselves under any obligation to

^k Can. Apost. lxii. (al. lv.) (Labbé, vol. i. p. 39.) *Εἰ τις ἐπίσκοπος, ἢ πρεσβύτερος, ἢ διάκονος, ἢ ὅλως τοῦ καταλόγου τοῦ ἱερατικοῦ, φάγγ κρέας ἐν αἵματι ψυχῆς αὐτοῦ, ἢ θηριάλωτον, ἢ θνησιμαῖον, καθαιρεῖσθω· τοῦτο γὰρ ὁ νόμος ἀπείπεν· εἰ δὲ λαϊκὸς εἴη, ἀφοριζέσθω.*

^l Concil. Gangrens. c. ii. (Labbé, vol. ii. p. 416.) *Εἰ τις ἐσθιόντα κρέα χωρὶς αἵματος καὶ εἰδωλοθύτου καὶ πνικτοῦ, μετ' εὐλαβείας καὶ πίστεως, κατακρίνοι, ὡς ἂν διὰ τὸ μεταλαμβάνειν, ἐλπίδα μὴ ἔχοντα, ἀνάθεμα ἔστω.*

^m Concil. Aurel. II. c. xx. (Labbé, vol. iv. p. 1782.) *Catholici . . . qui cibis idolorum cultibus immolatis gustu illicitæ præsumptionis utuntur, ab ecclesiæ coetibus arceantur. Similiter et hi, qui bestiarum morsibus exstincta, vel quolibet morbo aut casu suffocata vescuntur.*

ⁿ Concil. Trull. c. lxvii. (Labbé, vol. vi. p. 1171.) *Ἡ θεία ἡμῖν γραφή ἐνετείλατο ἀπέχεσθαι αἵματος, καὶ πνικτοῦ, καὶ πορνείας. Τοῖς οὖν διὰ τὴν λῆχρον γαστέρα αἷμα οἰονόηποτε ζῶον τέχνη τινὶ κατασκευάζουσιν ἐδώδιμον, καὶ οὕτω τοῦτο ἐσθίουσι, προσφόρως ἐπιτιμῶμεν. εἰ τις οὖν ἀπὸ τοῦ νῦν αἷμα ζῶον ἐσθίειν ἐπιχειροίη οἰφθήτινι τρόπῳ, εἰ μὲν κληρικὸς εἴη, καθαιρεῖσθω· εἰ δὲ λαϊκός, ἀφοριζέσθω.*

^o Augustin. contr. Faust. lib. xxxii. c. xiii. (tom. vi. Opp. p. 483, 484, edit. Basil. 1569.) (Bened. 1700. vol. viii. p. 324. A 6.) *In Actibus Apostolorum hoc lege præceptum ab apostolis, ut abstinerent gentes tantum a fornicatione et ab immolatis et a sanguine: id est, nequidquam ederent carnis, cujus sanguis non esset effusus. Quod alii non sic intelligunt, sed a sanguine præceptum esse abstinendum, ne quis homicidio se contaminet. Hoc nunc discutere longum est, et non necessarium: quia et si hoc tunc apostoli præceperunt, ut ab animalium sanguine abstinerent Christiani, ne præfocatis carnibus vescerentur, elegisse videntur pro tempore rem facilem, et nequaquam observantibus onerosam, in qua cum Israëlitis etiam gentes, propter angularem illum lapidem, duos [parietes] in se condentem, aliquid communiter observarent; simul et admonerentur, in ipsa arca Noë, quando Deus hoc jussit, ecclesiam omnium gentium fuisse præfiguratam; cujus facti prophetia jam gentibus, ad fidem accedentibus, incipiebat impleri. Transacto vero illo tempore, quo illi duo parietes, unus ex circumcissione, alter ex præcepto venientes, quamvis in angulari lapide concordarent, tamen suis quibusdam proprietatibus distinctius eminebant; ac ubi ecclesia gentium talis effecta est, ut in ea nullus Israëlita carnalis appareat, quis jam hoc Christianus observat, ut turdos vel minutiores aviculas non attingat, nisi quarum sanguis effusus est; aut leporem non edat, si manu a cervice percussus, nullo cruento vulnere occisus est? Et qui forte pauci adhuc tangere ista formidant, a ceteris irridentur: ita omnium animos in hac re tenuit illa sententia veritatis, ‘Non quod intrat in os vestrum, vos coinquinat, sed quod exit:’ nullam cibi naturam, quam societas admittit humana, sed quæ iniquitas committit peccata, condemnans.*

observe it, or made any scruple of eating blood." So that this rule of discipline is to be taken with this limitation and restriction, as to what concerns the practice of the ancient Church. He that would see more about it, may consult Curcellæus,^p who has written a large dissertation upon the subject.

SECT. XXI.—16. *For contemning the Fasts and Festivals of the Church.*

16. The custom of the ancient Church was, with a great deal of strictness, to observe many stated fasts and festivals: as the annual fast of Lent, and the weekly fasts of the stationary days, that is, Wednesday and Friday in every week; and the anniversary returns or commemorations of the great actions of our Saviour's life, and his apostles and martyrs: and, therefore, some canons lay great penalties especially upon clergymen, who showed any disrespect to these by a wilful contempt or neglect of them. "If any bishop, or presbyter, or deacon, or reader, or singer," says one of the Apostolical Canons,^q "observe not the Lent fast, or the fast of the fourth and sixth days of the week; he shall be deposed, unless he be hindered by bodily weakness and infirmity." The Council of Gangra^r goes a little farther, and denounces anathema to all the asceticks of the Church, who, without any plea of bodily necessity, but mere pride and haughtiness, neglect and despise the fasts commonly received in the Church, and observed by ancient tradition. And another canon^s denounces anathema likewise against all who accuse the assemblies made at the

^p Curcell. de Esu Sanguinis, cap. xiii. inter Opera, Amstelod. 1675. p. 974. seqq.

^q Can. Apost. lxviii. (al. lxi.) (Labbé, vol. i. p. 39.) Εἰ τις ἐπίσκοπος, ἡ πρεσβύτερος, ἡ διάκονος, ἡ ἀναγνώστης, ἡ ψάλτης, τὴν ἁγίαν τεσσαρακοστὴν τοῦ πάσχα, ἡ τετράδα, ἡ παρασκευὴν οὐ νηστεύει, καθαιρεῖσθω· ἐκτὸς εἰ μὴ δι' ἀσθένειαν σωματικὴν ἐμποδίζοιτο.

^r Concil. Gangrens. c. xix. (Labbé, vol. ii. p. 424.) Εἰ τις ἀκουσμένων χωρὶς σωματικῆς ἀνάγκης ὑπερηφανεύοιτο, καὶ τὰς παραδεδομένας νηστείας εἰς τὸ κοινὸν, καὶ φυλασσομένας ὑπὸ τῆς ἐκκλησίας, παραλίποι, ἀποκυροῦντος ἐν αὐτῷ τελείου λογισμοῦ, ἀνάθεμα ἔστω.

^s Ibid. can. xx. (Labbé, vol. ii. p. 424.) Εἰ τις αἰτιῶτο, ὑπερηφάνῳ διαθήσει κεχορημένος καὶ βδελυσσόμενος τὰς συνάξεις τῶν μαρτύρων, ἢ τὰς ἐν αὐτοῖς γινομένας λειτουργίας, καὶ τὰς μνήμας αὐτῶν, ἀνάθεμα ἔστω.

monuments of the martyrs, or abhor the service that is performed there, or despise the memorials or annual commemorations that were made in honour of them. A like canon was made in the first Council of Carthage,^t that "if any one reproachfully said or did any thing to the dishonour of the martyrs; if he was a layman, he should be put under penance: but if he was a clergyman, after admonition and conviction he should be deprived of his honour and dignity." And some other canons were made by the Council of Laodicea^u to the same purpose.

SECT. XXII.—17. *For not observing the rule about Easter.*

17. Some canons also make it a great transgression, not to observe the rule that was settled by the Church in the Council of Nice, for fixing the time of keeping the paschal festival. For though a great liberty was allowed before in this matter, by reason of the disputes that were between the Roman and Asiatic Churches about it; yet when once the great Council of Nice had interposed her authority to end the controversy, it was no longer esteemed a matter of indifference; but all Churches were obliged to comply with her determination. Therefore the Council of Antioch, not long after, made a very peremptory decree,^v that whoever pertinaciously opposed the

^t Concil. Carth. I. c. ii. Si quis ad injuriam martyrum claritati eorum adjunctat infamiam, placet eos, si laici sint, ad poenitentiam redigi: si autem sint clerici, post commonitionem et post cognitionem, honore privari. (Labbé, vol. ii. p. 714.)

^u Concil. Laodicen. c. xxxiv. (Labbé, vol. i. 1501.) "Οτι οὐ δεῖ πάντα Χριστιανὸν ἐγκαταλείπειν μάρτυρας Χριστοῦ, κ. τ. λ. — Can. xxxv. (p. 1503.) "Οτι οὐ δεῖ Χριστιανὸς ἐγκαταλείπειν τὴν ἐκκλησίαν τοῦ Θεοῦ, καὶ ἀπειναι, καὶ ἀγγέλους ὀνομάζειν, καὶ συνάξεις ποιεῖν, κ. τ. λ.

^v Concil. Antioch. c. i. (Labbé, vol. ii. p. 561.) Πάντας τοὺς τολμῶντας παραλείναι τὸν ὅρον τῆς ἁγίας καὶ μεγάλης συνόδου τῆς ἐν Νικαίᾳ συγκροτηθείσης ἐπὶ παρουσίᾳ τῆς εὐσεβείας τοῦ θεοφιλεστάτου βασιλέως Κωνσταντίνου, περὶ τῆς ἁγίας ἑορτῆς τοῦ σωτηριώδους πάσχα, ἀκοινωνήτους καὶ ἀποβλήτους εἶναι τῆς ἐκκλησίας, εἰ ἐπιμένουσιν φιλονεικότερον ἐνιστάμενοι πρὸς τὰ καλῶς δεδογμένα· καὶ ταῦτα εἰρήσθω περὶ τῶν λαϊκῶν· εἰ δὲ τις τῶν προεστώτων τῆς ἐκκλησίας, ἐπίσκοπος, ἢ πρεσβύτερος, ἢ διάκονος, μετὰ τὸν ὅρον τοῦτον τολμήσειεν ἐπὶ διαστροφῇ τῶν λαῶν, καὶ ταραχῇ τῶν ἐκκλησιῶν, ιδιάζειν καὶ μετὰ τῶν Ἰουδαίων ἐπιτελεῖν τὸ πάσχα· τοῦτον ἢ ἁγία σύνοδος ἐντεῦθεν ἤδη ἀλλότριον ἔκρινεν τῆς ἐκκλησίας· ὥς οὐ μόνον ἑαυτῷ ἁμαρτίας, ἀλλὰ πολλοῖς διαφθορᾷ καὶ διαστροφῇ γινόμενον αἴτιον· καὶ οὐ μόνον τοὺς τοιοῦτους καθαρῇ τῆς λειτουργίας, ἀλλὰ καὶ τοὺς τολμῶντας τοῦτοις κοινωνεῖν μετὰ τὴν

rule agreed upon in the Nicene Council, should be excommunicated and expelled the Church, if he were a layman. And if either bishop, presbyter, or deacon, should subvert the people, and disturb the Church by keeping Easter, in a different manner, with the Jews, they should be removed from their ministry, and be cast out of the Church: and whoever communicated with them after such censure, should be liable to the same condemnation. There was also another way of celebrating Easter with the Jews, by a false calculation making it to fall before the vernal equinox; and so, many times, bringing two Easters into the same year. Which practice is condemned as Judaical by the author of the Constitutions;^x and any clergyman complying with it, by the Apostolical Canons,^y is made liable to deprivation also.

SECT. XXIII.—18. *For wearing an indecent Habit.*

18. If any clergyman wore an indecent habit, unbecoming his order and station in the Church, he made himself liable to canonical censure. The first Council of Mascon^z forbids clergymen to wear arms, or a soldier's coat, or any garments or shoes not becoming their profession, after the manner of seculars or laymen. And whoever offended in this kind, was to be confined for thirty days in prison, and fed only with bread and water, for his transgression. But this was a rule only for common and ordinary cases, not for cases of great exigency, or times of persecution. Therefore when the famous Eusebius of Samosata went about the world in a soldier's habit,^a as the historians relate, to ordain presbyters and dea-

καθαίρεισιν τοὺς δὲ καθαίρεθέντας ἀποστερεῖσθαι καὶ τῆς ἐξωθεν τιμῆς, ἧς ὁ ἄγιος κανὼν καὶ τὸ τοῦ Θεοῦ ἱερατεῖον μετέλληφεν.

^x Constit. lib. v. c. xvi. See Book xx. chap. v. § iv. vol. vii. p. 102.

^y Can. Apost. vii. al. viii. (Labbé, vol. i. p. 25.) Εἰ τις ἐπίσκοπος, ἢ πρεσβύτερος, ἢ διάκονος, τὴν ἁγίαν τοῦ πάσχα ἡμέραν πρὸ τῆς ἑαρινῆς ἰσημερίας μετὰ Ἰουδαίων ἐπιτελέσει, καθαίρεισθω.

^z Concil. Matiscon. I. c. v. (Labbé, vol. v. p. 968.) Nullus clericus sagum, aut vestimenta, vel calceamenta sæcularia, nisi quæ religionem deceant, induere præsumat. Quod si, post hanc definitionem, clericus cum indecenti veste, aut cum armis inventus fuerit, a seniore ita coërceatur, ut triginta dierum inclusione detentus, aqua tantum et modico pane diebus singulis sustentetur.

^a Vide Theodoret. lib. iv. c. xiii. (Vales. Amstel. 1695. p. 166. A 12.) Οὗτος πολλὰς τῶν ἐκκλησιῶν ἐρήμους εἶναι ποιμένων μαθὼν, στρατιωτικὸν ἀμπεχόμε-

cons in the heat of the Arian persecution; though this was against the letter of another law, which forbid any bishop to ordain in another man's diocese; yet he was never accused by any good catholic for transgressing either law, because the necessity of the thing justified the fact: and these rules, made for common order and decency, were in this case superseded by a rule of superior obligation. For the preservation of the faith and ministry was of much more weight and concern to the Church at such a juncture, than the wearing of an habit; and it was no fault in him to wear a soldier's coat in such an exigency, to preserve the Church, and pass undiscerned, though it would have been a great violation of the rules of order and decency in other cases. But this only by the way: I now pass on to the remaining laws of discipline, which concerned the clergy.

SECT. XXIV.—19. *For keeping Hawks or Hounds, and following any unlawful diversions.*

19. The same rules of the Church, which obliged clergymen to avoid secular employments, may with good reason be construed also a prohibition of secular diversions, such as hunting, and hawking, and horse-racing, and gaming at dice, and acting of plays and farces, and frequenting the games and sights of the cirque and theatre. All these may be comprehended in the general prohibition of secular things: but there are some canons which more expressly forbid them to the clergy under pain of canonical censure. “Bishops, presbyters, or deacons shall not keep dogs or hawks for hunting,” says the Council of Agde:^b “and if any one is detected in this intention, if he be

νος σχῆμα, καὶ τιάρα καλύπτων τὴν κεφαλὴν, τὴν Συρίαν περιφέρει, καὶ τὴν Φοινίκην, καὶ τὴν Παλαιστίνην, πρεσβυτέρους χειροτονῶν καὶ διακόνους, καὶ τὰ ἄλλα τάγματα τῆς ἐκκλησίας ἀναπληρῶν.

^b Concil. Agath. c. lv. (Labbé, vol. iv. p. 1392.) *Episcopis, presbyteris, diaconibus, canes ad venandum, aut accipitres habere non liceat. Quod si quis talium personarum in hac voluntate detectus fuerit, si episcopus est, tribus mensibus se suspendat a communione: presbyter duobus mensibus se abstineat; diaconus uno [vero] ab omni officio vel communione cessabit.*—Vide Conc. Matiscon. II. c. xiii. (Labbé, vol. v. p. 985.) *Tractatis omnibus, quæ divinæ legis vel humani juris fuerunt, et ad finem usque perductis, putavimus congruum esse, de canibus etiam vel accipitribus aliqua statuere. Volumus igitur, quod episcopalis domus,*

a bishop, he shall be suspended three months from communion ; if a presbyter, two months; if a deacon, he shall *wholly* (*one year?*) cease from his office and communion." The Council of Eliberis has a general canon^c forbidding laymen to play at dice or tables, under the penalty of suspension from communion for a whole year. And that must be supposed with greater force to affect the clergy. Other canons^d under Charles the Great expressly name the clergy, and refer to the ancient rule of the Church for the prohibition. And the Council of Trullo^e forbids dice both to the clergy and laity, under the penalty of deprivation to the one, and excommunication to the other. The same Council^f forbids clergymen to act farces as mimics in the theatre, or to bait or hunt wild beasts with dogs, or to dance upon the stage under the like penalty of deprivation. The Council of Laodicea^g forbids them to be present as spectators at any stage-plays. And the Council of Carthage gives a good

quæ ad hoc Deo favente instituta est, ut sine personarum acceptione omnes in hospitalitate recipiat, canes non habeat. . . . Ubi igitur Dei est assiduitas cantilenæ, monstrum est et dedecoris nota, canes ibi vel accipitres habitare.—Conc. Mogunt. c. xiv. Canes et aves sequi ad venandum, in omnibus quibuslibet sit causis, superfluum esse. (Labbé, vol. vii. p. 1246.)

^c Concil. Illiberritan. c. lxxix. (Labbé, vol. i. p. 979.) Si quis fidelis alea, id est, tabula luserit nummos, placuit eum abstineri : et si emendatus cessaverit, post annum poterit reconciliari communioni(e).

^d Conc. Mogunt. c. xiv. (Labbé, vol. vii. p. 1245.) Ministri altaris Domini, vel monachi, nobis placuit, ut a negotiis sæcularibus omnino abstineant. Multa sunt ergo negotia sæcularia. . . . Quidquid plus justo appetit homo, turpe lucrum est : munera injusta accipere . . . aleas amare, etc.—Can. Apost. xli. (Labbé, vol. i. p. 35.) Ἐπίσκοπος, ἡ πρεσβύτερος, ἡ διάκονος, κύβοις σχολάζων καὶ μέθαις, ἡ παυσάσθω, ἡ καθαιρείσθω. xlii. Ὑποδιάκονος, ἡ ψάλτης, ἡ ἀναγώστης τὰ ὅμοια ποιῶν, ἡ παυσάσθω, ἡ ἀφοριζέσθω. ὡσαύτως καὶ λαϊκός.

^e Concil. Trullan. c. l. (Labbé, vol. vi. p. 1166.) Μηδένα τῶν ἀπάντων εἴτε λαϊκῶν, εἴτε κληρικῶν, κυβεύειν ἀπὸ τοῦ νῦν· εἰ δέ τις τοῦτο φωραθῇ πράττων, εἰ μὲν κληρικὸς εἴη, καθαιρείσθω· εἰ δὲ λαϊκός, ἀφοριζέσθω.

^f Ibid. can. li. Καθόλου ἀπαγορεύει ἡ ἀγία καὶ οἰκουμένη ἡ σύνοδος αὕτη τοὺς λεγομένους μίμους, καὶ τὰ τούτων θέατρα· εἰτάγε μὴν καὶ τὰ τῶν κυνηγιῶν θεώρια, καὶ τὰς ἐπὶ σκηνῶν ὀρχήσεις ἐπιτελεῖσθαι· εἰ δέ τις τοῦ παρόντος κανόνος καταφρονήσῃ, καὶ πρὸς τι ἑαυτὸν τῶν ἀπηγορευμένων τούτων ἐκδῶ, εἰ μὲν κληρικὸς εἴη, καθαιρείσθω· εἰ δὲ λαϊκός, ἀφοριζέσθω.

^g Conc. Laodicen. c. liv. (Labbé, vol. ii. p. 1505.) "Ὅτι οὐ δεῖ ἱερατικούς ἢ κληρικούς τινας θεωρίας θεωρεῖν ἐν γάμοις ἢ δείπνοις, ἀλλὰ πρὸ τοῦ εἰσερχέσθαι τοὺς θυμηλικούς, ἐγείρεσθαι αὐτοὺς καὶ ἀναχωρεῖν.

reason,^h why neither they nor their children ought either to exhibit, or frequent such plays; “because they were prohibited to laymen for the blasphemy of those wicked wretches that were concerned in them.” They thought it intolerable, that any of the clergy should encourage those things by their presence, which a layman could not see with innocence, nor be a spectator without a censure.

SECT. XXV.—20. *For suspicious Cohabitation with strange women.*

20. The most ancient laws of the Church did not absolutely impose celibacy upon the clergy, nor universally restrain them from the conjugal state and married life, as has been showed more at large in a former¹ book. But there were two things in the conversation of the clergy, respecting women, which they very much disallowed and censured. One was the suspicious and scandalous cohabitation of some vain and indiscreet men with strange women, who were none of their kindred. The freedom which these used, obliged the Church not only to forbid the clergy to cohabit with such, as they then termed foreigners and strangers, *συνεῖσακτοι*, in opposition to a mother, a sister, or an aunt, of whom for the nearness of blood there could be no reasonable suspicion; but also induced her to enforce this rule with the utmost severity of discipline upon delinquents. Cyprian¹ commends Pomponius for excommunicating a deacon, who had been found guilty in this kind. And among other reasons alleged by the Council of Antioch for deposing Paulus Samosatensis from his bishopric, this is one, “that he had always some of these *συνεῖσακτοι*, or strange women, to attend him, and allowed his presbyters and deacons

^h Concil. Carth. III. c. xi. (Labbé, vol. ii. p. 1169.) Ut filii sacerdotum vel clericorum spectacula sæcularia non exhibeant, sed nec spectent, quandoquidem a spectaculo et omnes laici prohibeantur. Semper enim Christianis omnibus hoc interdictum est, ut, ubi blasphemi sunt, non accedant.

¹ Book iv. c. v. § v. vol. i.

¹ Cypr. Epist. lxii. al. iv. ad Pompon. (Oxon. 1682. p. 5, at top.) Consulte et cum vigore fecisti, frater carissime, abstinendo diaconum, qui cum virgine sæpe mansit, sed et ceteros qui cum virginibus dormire consueverunt.

to have the like,^k that they might not accuse him." The second Council of Arles^l excommunicates every clergyman above the order of deacons, that retains any woman as a companion; except it be a grandmother, or mother, or sister, or daughter, or niece, or a wife after her conversion. And the Council of Lerida^m orders them to be suspended from their office, till they amend their fault after a first or second admonition.

SECT. XXVI.—21. *For marrying after Ordination.*

21. The other thing that was generally disliked, was the clergy's marrying a second time after ordination. They did not, as I said, reject married men from orders, nor oblige them to live separate from their wives after ordination: nay if a deacon protested before ordination, that he could not continue in an unmarried state, he might marry afterwards,ⁿ and not forfeit his office, by a decree of the Council of Ancyra. But other canons forbid presbyters and bishops to marry after ordination, whether they were married or unmarried before, and this under pain of deprivation. "If a presbyter marries a wife (that is after he is ordained presbyter, for it regards not

^k Euseb. lib. vii. c. xxx. (Vales. Amstel. 1695. p. 230. A 4.) Τὰς δὲ συνεισάκτους αὐτοῦ γυναῖκας, ὡς Ἀντισοχεῖς ὀνομάζουσι, καὶ τῶν περὶ αὐτὸν πρεσβυτέρων καὶ διακόνων, οἷς καὶ τοῦτο καὶ τὰ ἄλλα ἀμαρτήματα ἀνίατα ὄντα συγκρύπτει, συνειδῶς καὶ ἐλέγξας, ὅπως αὐτοὺς ὑπόχρεως ἔχῃ, περὶ ὧν λόγοις καὶ ἔργοις ἀδικεῖ, μὴ τολμῶντας κατηγορεῖν τῷ καθ' ἑαυτοὺς φόβῳ.

^l Concil. Arelat. II. c. iii. (Labbé, vol. iv. p. 1011.) Si quis clericus a gradu diaconatus in solatio suo mulierem, præter aviam, matrem, sororem, filiam, neptem, vel conversam uxorem secum, habere præsumserit, alienus a communione habeatur.

^m Concil. Ilerdens. c. xv. (Labbé, vol. iv. p. 1613.) Familiaritatem extranearum mulierum, licet ex toto sancti patres antiquis monitionibus præceperint ecclesiasticis evitandam, id nunc tamen nobis visum est, ut qui talis probabitur, si post primam et secundam communionem se emendare neglexerit, donec in vitio perseverat, officii sui dignitate privetur. Quod si se, Deo juvante, correxerit, sancto ministerio restauretur.

ⁿ Concil. Ancyran. c. x. (Labbé, vol. i. p. 1460.) Διάκονοι, ὅσοι καθίστανται, παρ' αὐτὴν τὴν κατάστασιν εἰ ἐμαρτύραντο καὶ ἔφασαν χρῆναι γαμῆσαι, μὴ δυνάμενοι οὕτως μένειν· οὗτοι μετὰ ταῦτα γαμήσαντες, ἔστωσαν ἐν τῇ ὑπηρεσίᾳ, διὰ τὸ ἐπιτραπῆναι αὐτοὺς ὑπὸ τοῦ ἐπισκόπου· τοῦτο δὲ εἰ τινες σιωπήσαντες, καὶ καταδεξάμενοι ἐν τῇ χειροτονίᾳ μένειν οὕτως, μετὰ ταῦτα ἤλθον ἐπὶ γάμον, πεπαῦσθαι αὐτοὺς τῆς διακονίας.

his being married before) let him be removed from his order," says the Council of Neocæsarea.^o The Council of Eliberis^p and some others in the Latin Church were more rigorous toward the married clergy, and began not only to forbid them to marry after ordination, but to oblige them to relinquish those wives they had married before. But as this was an encroachment upon the primitive rule, and never received in the Greek Church, it is not to be reckoned among the standing rules of discipline that concerned the whole Church.

^o Concil. Neocæsar. c. i. (Labbé, vol. i. p. 1480.) Πρεσβύτερος ἂν γήμῃ, ῥῆς τάξεως αὐτὸν μεταρτίσθαι.

^p Concil. Illiberitan. c. xxxiii. (Labbé, vol. i. p. 974.) Placuit in totum prohiberi episcopis, presbyteris, et diaconibus, vel omnibus clericis positis in ministerio, abstinere se a conjugibus suis, et non generare filios: quicumque vero fecerit, ab honore clericatus exterminetur.—Vide Concil. Agath. c. ix. (Labbé, vol. iv. p. 1384.) Placuit etiam ut, si diacones aut presbyteri conjugati ad torum [locum] uxorum suarum redire voluerint, papæ Innocentii ordinatio et Siricii episcopi auctoritas, quæ est his canonibus inserta, conservetur.

Epistola S. Innocentii Papæ.

‘Dilectissimo fratri Exuperio Innocentius. Consulenti tibi, frater carissime; . . . ‘Proposuisti, quid de his observari debeat, quos in diaconii ministerio, aut in officio presbyterii positos incontinentes esse aut fuisse, generati filii prodiderunt. De his et divinarum legum manifesta est disciplina, et beatæ recordationis viri Siricii episcopi monita evidentia commearunt, ut incontinentes in officiis talibus positi omni ecclesiastico honore privarentur, nec admitterentur accedere ad ministerium, quod sola continentia oportet impleri. . . . Nam si ad aliquos forma illa ecclesiasticæ vitæ pariter et disciplinæ, quæ a Siricio episcopo ad provincias commeavit, non probabitur pervenisse, his ignorationis venia remittitur; ita ut de cetero penitus incipiant abstinere. Et ita gradus suos in quibus inventi fuerint, sic retentent, ut ad potiora eis non liceat adscendere. Quibus in beneficio esse debet, quod hunc ipsum locum, quem retinent, non amittunt. Si qui autem scisse formam vivendi missam a Siricio episcopo deteguntur, neque statim cupiditates libidinis abjecisse, illi sunt modis omnibus submovendi, qui post admonitionem cognitam præponendam arbitrati sunt voluptatem.’—Conc. Arausic. I. can. xxiii. (Labbé, vol. iii. p. 1450.) Si quis post acceptam benedictionem leviticam cum uxore sua incontinens invenitur, ab officio abjiciatur.—Concil. Carthag. V. can. iii. (Labbé, vol. ii. p. 1215.) Quum de quorundam clericorum, quamvis erga uxores proprias, incontinentia referretur, placuit episcopos et presbyteros et diaconos, secundum propria statuta, etiam ab uxoribus continere. Quod nisi fecerint, ab ecclesiastico removeantur officio. etc.—Concil. Matiscon. I. c. xi. (Labbé, vol. v. p. 969.) Episcopi, presbyteri, vel universi honoratiores clerici, quum sublimi dignitatis apice sublimantur, actibus omnino renuntient sæculi, et, sacro electi ministerio, repudient carnale consortium, ac permixtionis pristinæ contubernium permutent germanitatis affectu. Et quisquis ille est, divino munere benedictione percepta,

SECT. XXVII.—22. *For retaining an adulterous wife.*

22. Yet there was one case, in which the clergy were obliged to put away their wives, which was the case of adultery. "If the wife of a layman," says the Council of Neocæsarea,¹ "is convicted of adultery, such an one shall never attain to the ministry of the clergy. If she commits adultery after his ordination, he must put her away, or quit his ministry, if he retains her." The Council of Eliberis² goes a little farther, and says, "if a clergyman's wife commits adultery, and the husband knows it and does not immediately put her away, he shall not be admitted to communion even at his last hour, lest they who should be an example of good conversation, should seem to teach others the way to sin."

SECT. XXVIII.—23. *For Non-residence.*

23. There were some laws also relating to the residence of the clergy, which was strictly enjoined, with a denunciation of canonical censure to the transgressors. The several laws requiring residence have been noted in another¹ place: here I shall only mention such of them, as specify the punishments that were to be inflicted on offenders in this kind. Among these that canon of the Council of Agde² is most remarkable,

uxori prius suæ frater illico efficiatur ex conjugē. Eos vero, quos reperimus ardore libidinis inflammatos, abjecto religionis cingulo, ad vomitum pristinum et inhabita rursus conjugia repetisse, atque incesti quodammodo crimine clarum decus sacerdotii violasse, quod nati etiam filii prodiderunt: quod quisquis fecisse cognoscitur, omni in perpetuum, quam admisso jam crimine perdidit, dignitate privabitur.

¹ Concil. Neocæsar. c. viii. (Labbé, vol. i. p. 1481.) Γυνή τινος μοιχευθεῖσα λαϊκοῦ ὄντος, ἐὰν ἐλεγχθῇ φανερώς, ὁ τοιοῦτος εἰς ὑπηρεσίαν ἐλθεῖν οὐ δύναται. Ἐὰν δὲ καὶ μετὰ τὴν χειροτονίαν μοιχευθῇ, ὀφείλει ἀπολύσαι αὐτήν· ἐὰν δὲ σοῦζῃ, οὐ δύναται ἔχεισθαι τῆς ἐγχειρισθείσης αὐτῇ ὑπηρεσίας.

² Concil. Ililiberit. c. lxxv. (Labbé, vol. i. p. 978.) Si cujus clerici uxor fuerit mœchata, et scierit eam maritus suus mœchari, et non eam statim projecerit, nec in fine accipiat communionem: ne ab his, qui exemplum bonæ conversationis esse debent, ab eis videantur scelorum magisteria procedere.

¹ Book vi. ch. iv. § vii. vol. i.

² Concil. Agath. c. lxiv. (Labbé, vol. iv. p. 1393.) Si quis in clero constitutus ab ecclesia sua diebus solennibus defuerit, id est, Nativitate, Epiphania, Pascha, vel Pentecoste, dum potius sæcularibus lucris studet, quam servitio Dei pareat, convenit ut triennio a communione suspendatur. Similiter diaconus,

which decrees, that a presbyter or deacon, who was absent from his Church three weeks, should be three years suspended from the communion. And by the laws of Justinian^t every bishop, absenting from his Church beyond a certain term, and that upon very weighty affairs, and great necessity, or the will of his prince, is ordered to be removed from the college of bishops, as a man unworthy of his station. And the better to guard against this offence, as no clergyman was allowed to travel without the licence and commendatory letters of his bishop; so neither might any bishop travel or appear at court without the licence and approbation of his metropolitan. This was expressly provided by the same laws^u of Justinian; and before him, by the third Council of Carthage, which orders, “that no bishop shall go^v beyond sea without consulting his

vel presbyter, si tres hebdomadas ab ecclesia sua defuerint, huic damnationi succumbant.

^t Justin. Novell. vi. c. ii. (Amstel. 1663. p. 13.) Κάκεινο γεμὴν προσδιορίζομεν, ὥστε μηδένα τῶν θεοφιλεστάτων ἐπισκόπων ἔξω τῆς καθ’ ἑαυτὸν ἐκκλησίας, πλείον ἢ κατ’ ἑνιαυτὸν ὅλον ἀπολιμπάνεσθαι, (πλὴν εἰ μὴ τοῦτο κατὰ βασιλικὴν γίνοιτο κέλευσιν· τότε γὰρ μόνον ἐστὶν ἀνεύθυνον) τῶν ὁσιωτάτων πατριαρχῶν ἐκάστης διοικήσεως ἀναγκαζόντων τοὺς θεοφιλεστάτους ἐπισκόπους ταῖς αὐτῶν ἐγκαρτερεῖν ἀγιωτάταις ἐκκλησίαις, καὶ μὴ μακρὰν ὁδὸν στέλλεσθαι, μηδὲ ἐν ξένῃ διατρίβειν ἰθέλειν, μηδὲ τῶν ἀγιωτάτων ἐκκλησιῶν ἀμελεῖν, μηδὲ τὸν ἑνιαυτὸν ὑπερβαίνειν, ὃν δὴ καὶ αὐτὸν διὰ φιλανθρωπίαν ἐτάξαμεν. Εἰ μέντοιγε καὶ ὑπὲρ τὸν ἑνιαυτὸν πλανῶτο καὶ ἀλητεῦοι, καὶ μήτε πρὸς τὴν ἐπισκοπὴν ἐπανίοι τὴν οἰκίαν, μηδὲ βασιλικὴ τις αὐτὸν, καθάπερ ἐπὶόντες ἔφθμεν, κατέχοι κέλευσις· τηλικαῦτα, εἰ μὲν εἴη μητροπολίτης, πρὸς τὴν ἐκκλησιαστικὴν εὐταξίαν ἀφορῶν ὁ τοῦ κλίματος πατριάρχης καλεῖτω μὲν αὐτὸν τοῖς νενομισμένοις κηρύγμασι, φυλάττων πανταχοῦ τὴν τῶν ἱερῶν κανόνων παρατήρησιν· εἰ δὲ μένοι μέχρι παντὸς ἀπειθῶν, καὶ ἐξωθεῖτω τοῦ θεοῦ τῶν ἐπισκόπων χοροῦ, καὶ ἕτερον ἀντεισαγέτω, τῆς τοιούτης αἰδοῦς τε καὶ σεμνότητος ἄξιον· εἰ δὲ οὐ μητροπολίτης, ἀλλὰ τῶν ἄλλων τις ἐπισκόπων ὁ πλανώμενος εἴη, ταῦτα παρὰ τοῦ μητροπολίτου γινέσθω, κ. τ. λ.

^u Justin. Novell. vi. c. iii. (Amstel. 1663. p. 13.) Μὴ ἄλλως δὲ τινα τῶν θεοφιλεστάτων ἐπισκόπων θαρρῆν στέλλεσθαι πρὸς ταύτην τὴν εὐδαίμονα πόλιν, πρὶν ἂν, εἰ μὲν τις ἐπίσκοπος εἴη, γράμματα λάβοι τοῦ οἰκείου μητροπολίτου πρὸς τὴν βασιλείαν, ταῦτα δὴ κατὰ τοὺς θεῖους κανόνας συστατικὰ καλούμενα, τὰ μαρτυροῦντα τῇ ἀναγκαίῃ τῆς αὐτοῦ παρουσίας· εἰ δὲ γε μητροπολίτης εἴη ὁ παραγίνεσθαι βουλόμενος, γράμματα κομίσαιτο τοῦ διοικήσεως πατριάρχου, τὴν αὐτοῦ παρουσίαν ἀναγκαίαν εἶναι λέγοντα, κ. τ. λ.

^v Concil. Carthag. III. c. xxviii. (Labbé, vol. ii. p. 1171.) Placuit, ut episcopi trans mare non proficiscantur, nisi consulto primæ sedis episcopo suæ [sive] cujusque provinciæ [primate], ut ab eo præcipue possint sumere formam [sive commendationem].

primate, or chief bishop of the province, and taking his *Formatæ*," or letters of commendation. And before this the Council of Antioch^x made an order, that "no bishop or presbyter, or any other belonging to the Church, should go to court upon any occasion to address the prince, without the consent and letters of the provincial bishops, and especially the metropolitan, under the penalty of being cast out of communion, and losing the honour and dignity in the Church." And to this agree the rules and decrees of pope Hilary^y and Gregory the great,^z made in conformity to the ancient rules of discipline in the Church.

SECT. XXIX.—24. *For attempting to hold Preferment in two dioceses.*

24. The clergy were, farther, obliged to confine themselves to one Church: that is, as I have formerly had occasion to explain it, one diocese or diocesan Church, under the jurisdiction of one bishop; and not to seek, or attempt to hold preferment under two bishops in two such distinct Churches, or different jurisdictions. In this sense, pluralities were forbidden under the penalty of deprivation. The Council of Chalcedon^a

^x Concil. Antiochen. c. xi. (Labbé, vol. ii. p. 565.) cit. ad § xv. sub litt. (r) p. 411.

^y Hilar. Epist. viii. ad episcopos Galliæ, c. iii. (Labbé, vol. iv. p. 1403.) Illud etiam non possumus præterire, quod sollicitudine diligentiorum curandum sit, ne præter metropolitanorum suorum litteras aliqui ad quamlibet provinciam audeant proficisci, quod etiam in omni genere officii clericalis per singulas debet ecclesias custodiri.

^z Gregor. lib. vii. epist. viii. (Labbé, vol. v. p. 1315. B 10.) Additur, quod ex vobis aliqui pro ecclesiæ suæ emergentibus causis transmarina petentes, sine prædicti metropolitani sui cognitione, vel epistolis, sicut canonum ordo constituit, audent ambulare. Hortamur ergo fraternitatem vestram, ut antiquam ecclesiarum vestrarum consuetudinem exsequentes . . . si quemdam vestrum pro causis propriis ubicumque compulerit ambulare necessitas, ab eodem metropolitano vestro secundum indictam vobis regulam petere licentiam debeatis, nec eum postponere in aliquo præsumatis, etc.

^a Concil. Chalcedon. c. x. (Labbé, vol. iv. p. 759.) Non licere clerico in duarum civitatum ecclesiis eodem tempore in catalogum referri, et in ea in qua a principio ordinatus est, et in ea in quam, tamquam ad maiorem, confugit, propter inanis gloriæ cupiditatem; eos autem qui hoc faciunt, propriæ ecclesiæ restitui, in qua ab initio ordinati sunt, ut illic solum ministrent: sed si jam quispiam ex alia in aliam ecclesiam translatus est, nihil prioris ecclesiæ vel eorum, quæ sub ea sunt martyriorum, ptochotrophiorum, vel xenodochiorum

is very express to this purpose: "it shall not be lawful for any clergyman to have his name in the Church-roll or catalogue of two cities at the same time, that is, in the Church where he was first ordained, and any other to which he flies out of ambition as to a greater Church; but all such shall be returned to their own Church, where they were first ordained, and only minister there. But if any is regularly removed from one Church to another, he shall not partake of the revenues of the former Church, or of any oratory, hospital or almshouse belonging to it." And such as shall presume, after this definition of this great and œcumenical Council, to transgress in this matter, are condemned to be degraded by the holy synod.

SECT. XXX.—25. *For needless frequenting of public Inns and Taverns.*

25. The canons had also a great respect to the external and public behaviour of the clergy; obliging them to walk circumspectly, and abstain from things of ill fame, though otherwise innocent and indifferent in themselves; that they might cut off all occasions of obloquy, by avoiding all suspicious actions and all appearances of evil. In regard to which they not only censured them for rioting and drunkenness (which were vices not to be tolerated even in laymen) but forbade them so much as to eat or appear in a public inn or tavern, (except they were upon a journey, or some such necessary occasion required them to do it,) under pain of ecclesiastical censure. The Council of Laodicea^b and the third Council of Carthage^c forbid it universally to all orders of the clergy; and the Apostolical Canons^d

rebus communicare. Eos, qui ausi fuerint post magnæ hujus et universalis synodi definitionem, aliquid eorum quæ sunt prohibita, facere, statuit sancta synodus, eos proprio gradu excidere. See the Greek, vol. ii. p. 190.

^b Concil. Laodic. c. xxiv. (Labbé, vol. i. p. 1501.) "Ὅτι οὐ δεῖ ἱερατικοῦς ἀπὸ πρεσβυτέρων ἕως διακόνων, καὶ ἐξῆς τῆς ἐκκλησιαστικῆς τάξεως ἕως ὑπηρετῶν, ἢ ἀναγνωστῶν, ἢ ψαλτῶν, ἢ ἐπορκιστῶν, ἢ θυρωρῶν, ἢ τοῦ τάγματος τῶν ἀσκητῶν, εἰς καπηλεῖον εἰσεῖναι.

^c Concil. Carth. III. c. xxvii. (Labbé, vol. ii. p. 1171.) Ut clerici, edendi vel bibendi causa, tabernæ non ingrediantur, nisi peregrinationis necessitate compulsi.

^d Can. Apost. liii. al. liv. (Labbé, vol. i. p. 37.) Εἴ τις κληρικὸς ἐν καπηλείῳ φωραθὲι ἐσθίῳν, ἀφορίζεσθω· παρὲξ τοῦ ἐν πανδοχείῳ ἐν ὁδῷ δι' ἀνάγκην καταλόσαντος.

more expressly, with a denunciation of censure, viz. an ἀφορισμός, 'excommunication' or suspension from their office, to any that should be found in a tavern, except they were upon a journey and the necessity of their affairs required it.

SECT. XXXI.—26. *For conversing familiarly with Jews, Hereticks, or Gentile Philosophers.*

26. For the same reason, the canons prohibited them conversing familiarly with Jews, heretics, and heathens, especially the Gentile philosophers, because of the scandal attending such communication. The laws, forbidding all communication with Jews and heretics, have been mentioned upon another occasion: ¹ I shall here only add that remarkable story which Sozomen^e tells of Theodotus, Bishop of Laodicea, in Syria, how he excommunicated the two Apollinarii, father and son, because they went to hear Epiphanius the Sophist speak his hymn in the praise of Bacchus; which was a thing so disagreeable to their character; the one, being a presbyter; the other, a deacon in the Christian Church.

SECT. XXXII.—27. *For using over rigorous Severity towards Lapsers.*

27. As clergymen were obliged to show a just severity to impenitent sinners, by putting the laws of discipline duly in execution against them; so on the other hand, an over rigorous severity and stiffness in refusing to receive and reconcile penitent lapsers, after they had made canonical satisfaction, was a great offence, and such a manifest abuse of the minis-

¹ Book xvi. chap. vi. § iii. et x. vol. vi. p. 85. et p. 105.

^e Sozom. lib. vi. c. xxv. (Vales. Amstel. 1700. p. 546. A 5.) "Ἐπὶ Θεοδοίου τοῦ πρὸ αὐτοῦ τὴν Λαοδικέων ἐκκλησίαν ἰθύναντος, κατ' ἐκείνο καιροῦ διαπρέπων Ἐπιφάνιος, ὁ σοφιστής, ὕμνον εἰς τὸν Διόνυσον παρῆν· διδασκάλῳ δὲ αὐτῷ χρώμενος Ἀπολλινάριος, ἔτι γὰρ νέος ἦν, παρεγένετο τῇ ἀκροάσει σὺν τῷ πατρὶ ὁμῶνμος δὲ ἦν αὐτῷ, γραμματικὸς οὐκ ἄσημος· ἐπεὶ δὲ τοῦ λόγου ἀρχόμενος Ἐπιφάνιος, ὡς ἔθος τοῖς τοιαύτῃ ἐπιδεικνυμένοις λέγειν, τοὺς ἀμνήτους καὶ βεβήλους ἐξιέναι θύραζε ἐκέλευεν· οὔτε δὲ Ἀπολλινάριος ὁ νέος, οὔτε ὁ πρεσβύτερος, οὔτε ἕτερός τις τῶν παρόντων Χριστιανῶν τῆς ἀκροάσεως ἀπεχώρησε· μαθὼν ταῦτα Θεόδωτος ὁ ἐπίσκοπος, χαλεπῶς ἤνεγκε· καὶ τοῖς μὲν ἄλλοις ἐν λαῷ τεταγμένοις μετρίως ἐγκαλέσας, συγγνώμην ἐνεμεν· Ἀπολλινάριον ἑλέγξας, τῆς ἐκκλησίας ἀφώρισεν· ἥσθη γὰρ κληρικῶ, ὁ μὲν πατήρ, πρεσβύτερος· ὁ δὲ παῖς, ἀναγνώστης ἔτι τῶν ἱερῶν γραφῶν.

terial power, as the Church thought fit to correct with some sharpness, in her clergy. "If any bishop, presbyter, or deacon," say the Apostolical Canons,^f "receives not one that turns from sin, but casts him out, let him be deposed: because he grieves Christ, who said, 'There is joy in heaven over one sinner that repenteth.'" This was not the true exercise of discipline, but imperiousness and humour, and a mere domineering over God's heritage by an exorbitant stretch of the ministerial power. It was the very thing which the Novatian heretics contended for; and what the Church always opposed and condemned in them: and therefore when any of her own clergy assumed to themselves this extravagant power, she justly esteemed them infected with this Novatian principle of cruelty, and as such made them liable to the sentence of deprivation.

SECT. XXXIII.—28. *For want of Charity to indigent Clerks.*

28. There was another sort of cruelty, which the Church also much resented in any of her clergy; which was want of charity to any that were indigent and distressed in their own order. As charity obliges men to do good to all, as they have opportunity, but more especially to those who are of the household of faith; so clergymen were more especially obliged to assist those who were joined with them in the same ministry, and united more closely by a stricter bond of fraternity in the same occupation and employment. Therefore the Apostolical^g Canons censure this as a great transgression in these very sharp terms: "If any bishop or presbyter refuse to give necessities to any clergyman that is in want, let him be cast out of communion: and if he persist, let him be deposed, as a murderer of his brother."

^f Can. Apost. lii. (Labbé, vol. i. p. 37.) Εἰ τις ἐπίσκοπος, ἢ πρεσβύτερος, τὸν ἐπιστρέφοντα ἀπὸ ἁμαρτίας οὐ προσδέχεται, ἀλλ' ἀποβάλλεται, καθαιρέσθω· ὅτι λυπεῖ Χριστὸν, τὸν εἰπόντα, Χαρὰ γίνεται ἐν οὐρανῷ ἐπὶ ἐνὶ ἁμαρτωλῷ μετανοοῦντι.

^g Can. Apost. lviii. (Labbé, vol. i. p. 37.) Εἰ τις ἐπίσκοπος, ἢ πρεσβύτερος, τινὸς τῶν κληρικῶν ἐνδεοῦς ὄντος, μὴ ἐπιχορηγεῖ τὰ δεόντα, ἀφορίζεσθω· ἐπιμένων δέ, καθαιρέσθω, ὡς φονεύσας τὸν ἀδελφὸν αὐτοῦ.

SECT. XXXIV.—29. *For judging in cases of Blood.*

29. It was thought, also, some sort of cruelty, at least a very improper and unbecoming thing, for any clergyman to be concerned in judging or giving sentence in cases of blood. The laws allowed them to be chosen arbitrators of men's differences in civil causes: but they had no power at all in criminal causes, except such as were purely ecclesiastical; and least of all in such criminal causes where life and death was concerned. Therefore there are many canons forbidding this under the penalty of the highest censure of deprivation. The Council of Tarragona universally forbids the clergy to sit judges^h in any civil criminal causes. The Council of Auxerreⁱ more particularly enjoins presbyters not to sit in judgment, when any man is to be condemned to die; and, in another canon,^k forbids both presbyters and deacons to stand at the Trepalium, where criminals were put to the rack and examined by torture. The fourth Council of Toledo^l allows not priests to sit judges in cases of treason, even at the command of the prince, except the prince promised beforehand upon oath, that he would pardon the offence, and remit the punishment. If they did otherwise, they were to be held guilty of bloodshed before Christ, and to lose their order and degree in the Church. The eleventh Council of Toledo goes a little farther,^m not only

^h Concil. Tarracon. c. iv. (Labbé, vol. iv. p. 1564.) Habeant licentiam judicandi, exceptis criminalibus negotiis.

ⁱ Conc. Antissiodor. c. xxxiv. (Labbé, vol. v. p. 960.) Non licet presbytero in illo judicio sedere, unde homo ad mortem tradatur.

^k Ibid. c. xxxiii. (p. 960.) Non licet presbytero, nec diacono, ad trepalium, ubi rei torquentur, stare.

^l Concil. Tolet. IV. c. xxxi. (Labbé, vol. v. p. 1714.) Sæpe principes contra quoslibet majestatis obnoxios, sacerdotibus negotia sua committunt. Et quia sacerdotes a Christo ad ministerium salutis electi sunt, ibi consentiunt regibus fieri judices, ubi jurejurando supplicii indulgentia promittitur; non ubi discriminis (al. sanguinis) sententia præparetur. Si quis ergo sacerdotum contra hoc commune consultum discussor in alienis periculis exstiterit, sit reus effusi sanguinis apud Christum, et apud ecclesiam perdat proprium gradum.

^m Concil. Tolet. XI. c. vi. (Labbé, vol. vi. p. 549.) His, a quibus Domini sacramenta tractanda sunt, judicium sanguinis agitare non licet: et ideo magnopere talium excessibus prohibendum est, ne indiscretæ presumptionis motibus agitati, aut quod morte plectendum est, sententia propria judicare præsumant, aut truncationes quoslibet membrorum quibuslibet personis aut per se

excluding such from the honour of their order and station, but from all communion during their whole lives, which they are only to be allowed at the point of death.

SECT. XXXV.—1. *Bishops might be suspended or degraded for giving Ordinations contrary to the Canons.*

1. These were the chief of those rules of ancient discipline which concerned the clergy in general: beside which there were some which had a more peculiar respect to the persons of each particular order. Bishops might be suspended or degraded for several offences committed against the rules of their office and duty peculiar to their function. As first for wilful transgression of the known laws of ordination. If any bishops pretended to ordain a man into a full see, where another was regularly ordained before him; or if two or three bishops ordained a bishop clancularly without the consent of the rest of the provincial bishops and the metropolitan; not only the bishop so ordained was to be deposed, but the bishops who presumed to give him such ordination: ¹ which was the case of Trophimus and those two other obscure bishops who ordained Novatian; for which offence, as Cyprian and Cornelius often tell us, they were degraded, and reduced to lay-communion. If any bishop ordained those that were baptized by heretics, or re-baptized by them, he was liable to be deposedⁿ for his trans-

inferant, aut inferendas præcipiant. Quod si quisquam horum immemor præceptorum, aut ecclesiæ suæ familiis (al. famulis) aut in quibuslibet personis tale aliquid fecerit, et concessi ordinis honore privatus, et loco suo, perpetuo damnationis teneatur religatus ergastulo: cui tamen communio exeunti ex hac vita non neganda est; propter Domini misericordiam, 'qui non vult peccatoris mortem, sed ut convertatur et vivat.'

¹ Vide Conc. Arausic. I. c. xxi. (Labbé, vol. iii. p. 1450.) In nostris provinciis placuit de præsumtoribus, ut, sicubi contigerit duos episcopos episcopum invitum facere, auctoribus damnatis, unius eorum ecclesiæ ipse, qui vim passus est, substituitur, si tamen vita respondet; et alter in alterius dejecti loco nihilo minus ordinetur. Si voluntarium duo fecerint, et ipse damnabitur, quo cautius ea quæ sunt antiquitus statuta servantur.

ⁿ Vide Felic. iii. Epist. i. c. v. B 8. (Labbé, vol. iv. p. 1077. Epist. vii.) Illo per omnia custodito, ne ex eis umquam, qui in qualibet ætate alibi quam in ecclesia catholica aut baptizati aut rebaptizati sunt, ad ecclesiasticam militiam prorsus non permittantur accedere. Quibus satis esse debeat, quod in catholicorum numero sunt recepti: quoniam de suo ordine et communione videbitur ferre

gression. If a bishop, for favour, ordained any of his own unworthy kindred, by a rule of the Apostolical Canons^o he was liable to be suspended. If a bishop ordained any in another man's diocese, by a rule of the same Apostolical Canons, he was liable^p to be deposed, as well as the persons so ordained by him. All these things have been more fully showed in the third section of this chapter, to which the reader may have recourse. To which I only add, that if a bishop ordained a man who had done public penance in the Church, he himself was to be deprived^q of the power of ordination.

SECT. XXXVI.—2. *Also for neglecting to put the Laws of Discipline in execution.*

2. If bishops neglected to put the laws of discipline in execution, which was a peculiar act belonging to their office, they were liable to be deposed for such neglect and contempt of discipline, as well as those whom they ought to have punished with ecclesiastical censure. This is evident from the case put by Pope Felix^r of some who had been baptized or re-baptized by heretics, and were afterward irregularly ordained in the Church: not only they who ordained them, were liable to be deposed, but also those bishops who knew them to be so ordained; and did not remove them from their office, by putting the laws of discipline in execution against them. So again, if a presbyter or deacon assumed to themselves any office without the authority of the bishop not belonging to them, and the

judicium, quisquis hoc violaverit institutum, vel qui non removerit eum, quem ex eis ad ministerium clericale obrepisse cognoverit.

^o Can. Apost. lxxv. Vide supr. § iii. sub litt. (c) p. 396.

^p Ibid. can. xxxiv. (Labbé, vol. i. p. 32.) 'Επίσκοπον μὴ τολμᾶν ἔξω τῶν ἑαυτοῦ ὄρων χειροτονίας ποιῆσθαι εἰς τὰς μὴ ὑποκειμένας αὐτῷ πόλεις ἢ χώρας· εἰ δὲ ἐλεγχθεῖν τοῦτο πεποιηκώς, παρὰ τὴν τῶν κατεχόντων τὰς πόλεις ἐκείνας ἢ τὰς χώρας γνώμην, καθαιρεῖσθαι καὶ αὐτὸς, καὶ οὐδὲ ἐχειροτονησεν.

^q Concil. Carth. IV. c. lxxviii. (Labbé, vol. ii. p. 1205.) Ex poenitentibus (quamvis sit bonus) clericus non ordinetur. Si per ignorantiam episcopi factum fuerit, deponatur a clero, quia se ordinationis tempore non prodidit fuisse poenitentem. Si autem sciens episcopus ordinauerit talem, etiam ab episcopatus sui ordinandi duntaxat potestate privetur.

^r Felic. iii. epist. i. c. v. See preceding page, note (n).

bishop connived at their usurpation, he himself was liable¹ to canonical censure for his tameness in not correcting them for their presumption.

SECT. XXXVII.—3. *For dividing their Diocese, and erecting new Bishoprics without leave: or extending their claim to other men's Rights beyond their own Limits and Jurisdictions.*

3. Bishops rendered themselves obnoxious to canonical censure, if they made any attempts to alter the boundaries or districts of the Church, settled by ancient law and custom, without the advice and consent of a provincial synod. Dioceses might be divided upon just reasons, and new ones be erected out of them; either when they were too large for one bishop's care; which made St. Austin divide the diocese of Hippo, and take the new bishopric of Fussala out of it: or else when the prince thought fit to advance some eminent town or village into a city; then that city might be made a new bishopric by the consent of a provincial council. But if any one ambitiously got himself ordained bishop of a village, where there never had been any bishop before; or as ambitiously solicited the prince to turn a village into a city, that he might be made the bishop of it; in such cases the Church thought fit to correct the lofty thoughts of aspiring men, and defeat their attempts, by denying them those honours they had taken such indirect methods to obtain, and putting them under the censure of a deprivation. There are many canons and rules of discipline which forbid this practice: but the rule, made in one of the Councils of Toledo, is most remarkable, being an inference made upon a special case from all the ancient canons (forbidding bishops to be ordained in villages), which are there recited. King Wamba, by an imperious mandate, had enjoined

¹ Vide Gelasii epist ix. ad episcop. Lucaniæ, c. vi. vii. (Labbé, vol. iv. p. 1189.) Nec minus etiam presbyteros ultra modum suum tendere prohibemus: nec episcopali fastigio debita sibimet audacter assumere. . . . Si quidquam ad episcopale ministerium specialiter pertinens suo motu putaverint exsequendum, continuo se presbyterii dignitate et sacra communione privari. Quod fieri necesse est censeamus, si eorum præseule deferente, hujusmodi fuerit prævaricatio comprobata, nec ipso eorum episcopo a culpa conniventiae et ultione vacaturo, si immoderata facientem dissimulaverit vindicare. (vii.) Diaconos quoque propriam constituimus servare mensuram, etc.

some bishops to ordain other bishops in several villages and monasteries, lying in the suburbs of Toledo and other places : against which innovating attempt and usurpation the Council first cites the ancient canons, and then concludes with a new decree in these words ; “ If any one shall offer ^s to go against the prescription of these canons, in procuring himself to be made a bishop in those places, where there never was any bishop before, let him be anathema in the sight of God Almighty. And let moreover both the ordainer and the ordained lose the degree of their order, because they attempt not only to infringe the decrees of the ancient fathers, but the institutions of the Apostles.” The Council of Chalcedon made a like decree ^t against any that should presume to address the higher powers to get a province divided into two, in order to erect a new metropolis in it. This, they say, was against the rule of the Church ; and therefore they denounce deprivation against any one that should attempt it.

SECT. XXXVIII.—4. *For not attending Provincial Councils.*

4. Bishops were obliged to attend provincial councils ; and if they refused or neglected to do this without a reasonable cause, they were liable to suspension. To this purpose there is a decree in the second Council of Arles : “ If any one neglects ^u to be present, or leaves the assembly of his brethren, before the council be ended, he shall be excluded from the

^s Concil. Tolet. XII. c. iv. (Labbé, vol. vi. p. 1229.) Si quis contra hæc canonum interdicta venire cona-~~verit~~(tus fuerit), ut in locis illis episcopum eligat fieri, ubi episcopus numquam fuit, sit in conspectu omnipotentis Dei anathema : et insuper tam ordinans quam ordinatus gradum sui ordinis [honoris] perdat : quia non solum antiquorum patrum decreta, sed et apostolica ausus est convellere instituta.

^t Concil. Chalcedon. c. xii. (Labbé, vol. ii. p. 762.) Ἦλθεν εἰς ἡμᾶς, ὡς τινες παρὰ τοὺς ἐκκλησιαστικοὺς θεσμοὺς προσδραμόντες δυναστείαις, διὰ πραγματικῶν βασιλικῶν τὴν μίαν ἐπαρχίαν εἰς δύο κατέτεμον, ὡς ἐκ τούτου δύο μητροπόλεις εἶναι ἐν τῇ αὐτῇ ἐπαρχίᾳ· ὥρισε τοίνυν ἡ ἁγία σύνοδος, τοῦ λοιποῦ μηδὲν τοιοῦτον τολμᾶσθαι παρὰ ἐπισκόπων· ἐπεὶ τὸν τοῦτῃ ἐπιχειροῦντα ἐκπίπτειν τοῦ οἰκείου βαθμοῦ.

^u Concil. Arelat. II. c. xix. (Labbé, vol. iv. p. 1013.) Si quis adesse (synodo) neglexerit, aut cœtum fratrum, antequam concilium dissolvatur, crediderit deserendum, alienatum se a fratrum communione cognoscat ; nec eum recipi liceat, nisi in sequenti synodo fuerit absolutus.

communion of his brethren, and not be received again, till he is absolved by the following synod." The same decree is repeated by the Council of Tarragona,^x and said to be conformable to the rules of the Fathers, that if any bishop contemtuously omit to come to synod, when he is called by his metropolitan, unless he be under some great bodily infirmity, he shall be deprived of the communion of all the bishops to the sitting of the next council; which the African synods¹ call, 'being content with the communion of his own Church only.'

SECT. XXXIX.—5. *For oppressing the people with unjust Exactions.*

5. If any bishop oppressed his people, or any part of them, with hard usage, unjust demands, or unreasonable exactions; it was peculiarly provided in this case by the laws of the African Church, that he should be amerced or punished with the loss of that part of his diocese or people, who had reason to complain of such oppression. I have already noted this in the last chapter, section 4, out of one of St. Austin's epistles,² where he neatly defends this way of proceeding with bishops, when their offences were neither so great, as to deserve deprivation; nor so small, as to be perfectly overlooked, or let wholly pass without a censure.

^x Concil. Tarracon. c. vi. (Labbé, vol. iv. p. 1564.) Si quis episcopus, commonitus a metropolitano ad synodum, nulla gravi intercedente necessitate corporali, venire contemserit, sicut statuta patrum censuerunt, usque ad futurum concilium cunctorum episcoporum caritatis communione privetur.

¹ Concil. Carth. V. c. x. (Labbé, vol. ii. p. 1217.) Quod si non potuerint occurrere (ad concilium) excusationes suas in tractatoria subscribant: vel si post adventum tractatoriæ aliquæ necessitates repente forsitan ortæ fuerint, nisi rationem impeditenti sui apud suum primatem reddiderint, ab ecclesiæ [suæ] communione debere esse contemp(n)tos. — Cod. Afric. lxxvi. (Labbé, vol. ii. p. 1095. B 9.) Εἰ μὴ τὸν λόγον τοῦ οἰκείου ἐμποδισμοῦ παρὰ τῷ οἰκείῳ πρωτεύοντι ἀποδώσωσιν, δφείλκειν τοὺς τοιοῦτους τῇ κοινωνίᾳ τῆς ἰδίας αὐτῶν ἀρκεῖσθαι ἐκκλησίας.

² Augustin. epist. cclxi. vide cap. iv. § iv. sub litt. (p) p. 376.

SECT. XL. — 6. *For harbouring such as fled from another Diocese without leave.*

6. Finally, whereas it was provided by the canons, that no bishop should harbour or encourage any clerk flying from his own diocese, nor any monk deserting his own monastery; some councils took care to prevent this abuse, not only by degrading the deserting clerk, but by inflicting canonical punishment upon the bishop that so countenanced or received him. The Council of Antioch^y leaves it in general to the synod, to punish such an offending bishop. The Apostolical^z Canons are more particular, that he shall be suspended from his office, as a master of disorder. But in Africk, they had a more peculiar sort of punishment for such a bishop, which was, that he should communicate with no other bishop of the province, but be content with the communion of his own^a Church: which, as has been observed, was a moderate punishment for offences of a lower rate, which neither deserved to be punished with deprivation, nor yet escape wholly unpunished as no offences.

SECT. XLI.—*Chorepiscopi might be censured for acting beyond their commission.*

Next to the bishop there were a sort of ecclesiastical persons, whom the ancient Church called ‘Chorepiscopi,’ or country-bishops; because they officiated in certain episcopal duties, under the city-bishop, in country districts. These acted by a limited and dependent power; but many times were inclined to assume a power to themselves beyond their commission. Therefore the Church was obliged to make certain laws and

^y Conc. Antioch. c. iii. (Labbé, vol. ii. p. 564. B.) Εἰ δὲ καθαρευθέντα διὰ ταύτην τὴν αἰτίαν δέχοιτο ἕτερος ἐπίσκοπος, κάκεινον ἐπιτιμίας τυγχάνειν ὑπὸ κοινῆς συνόδου, ὡς παρὰ λύνοντα τοὺς θεσμοὺς τοὺς ἐκκλησιαστικοὺς.

^z Can. Apost. xv. (Labbé, vol. i. p. 28.) Εἰ ὁ ἐπίσκοπος, παρ’ ᾧ τυγχάνουσι, παρ’ οὐδὲν λογισάμενος τὴν κατ’ αὐτῶν ὀρισθῆσαν ἀργίαν, δίξεται αὐτοὺς ὡς κληρικοὺς, ἀφοριζέσθω ὡς διδάσκαλος ἀταξίας.

^a Concil. Carthag. V. c. xiii. (Labbé, vol. ii. p. 1217.) Placuit, ut si quis de alterius monasterio repertum, vel ad clericatum promovere voluerit, vel in suo monasterio majorem monasterii constituere; episcopus qui hoc fecerit, a ceterorum communione sejunctus, suæ tantum plebis communione contentus sit: et ille neque clericus, neque præpositus perseveret.

rules to restrain and correct their usurpations. These might ordain the inferior clergy, subdeacons, readers, and exorcists by a general commission; but not presbyters or deacons, without a special licence: yet sometimes they would take upon them to do that also without consulting the city-bishop; for which offence they were liable by the canons^b to lose their office and be degraded.

SECT. XLII.—*And Presbyters for usurping upon the Episcopal Office.*

The like may be observed of presbyters, who were assistants to bishops in performing their office, but with certain limitations, that they should not meddle with such parts of it as they reserved absolutely to themselves; such as ordination and consecration of Chrism, for the use of confirming, and the consecration of churches and altars. And if presbyters, at any time, exceeded the limits of their commission and order, by assuming the exercise and power of these things to themselves, by the laws of the Church they were liable to be divested of their ordinary power; which otherwise they might have enjoyed, and made subject to the penalty of a total deprivation. Thus when Eutychianus and Musæus, who were no bishops, had ordained several clerks, the Council of Sardica ordered,^c that for this presumption they should be deprived of their orders, and

^b Concil. Antioch. c. x. (Labbé, vol. ii. p. 565.) Τοὺς ἐν ταῖς κώμαις, ἢ ταῖς χώραις, ἢ τοὺς καλουμένους χωρεπισκόπους, εἰ καὶ χειροθεσίαν εἰεν ἐπισκόπων εὐληφότες, ἔδοξε τῇ ἀγίᾳ συνόδῳ εἰδέναι τὰ ἐαυτῶν μέτρα, καὶ διοικεῖν τὰς ὑποκειμένας αὐτοῖς ἐκκλησίας, καὶ τῇ τούτων ἀρκεῖσθαι φροντίδι καὶ κηδεμονίᾳ, καθιστᾶν δὲ ἀναγνώστας, καὶ ὑποδιακόνους, καὶ ἐφορκιστάς, καὶ τῇ τούτων ἀρκεῖσθαι προαγωγῇ· μήτε πρεσβύτερον, μήτε διάκονον χειροτονεῖν τολμᾶν, διχα τοῦ ἐν τῇ πόλει ἐπισκόπου, ᾧ ὑπόκειται αὐτός τε καὶ ἡ χώρα· εἰ δὲ τολμήσῃ τις παραβῆναι τὰ ὀρισθέντα, καθαιρεῖσθαι αὐτὸν καὶ ἥς μετέχει τιμῆς.

^c Concil. Sardic. c. xix. (Labbé, vol. ii. p. 641.) "Ὅσιος ἐπίσκοπος εἶπε· Τῆς ἐμῆς μετριότητος ἡ ἀπόφασίς ἐστιν αὕτη· ἑπειδὴν ἡσυχοὶ καὶ ὑπομονητικοὶ ὀφείλομεν εἶναι, καὶ διαρκῆ τὸν πρὸς πάντας ἔχειν οἶκτον, ἡπαξ τοὺς εἰς κλῆρον ἐκκλησιαστικὸν προαχθέντας ὑπὸ τινων ἀδελφῶν ἡμῶν, ἂν μὴ βούλονται ἐπ' ἀνέρχεσθαι εἰς αἷς κατωνομάσθησαν ἐκκλησίας, τοῦ λοιποῦ μὴ ὑποδέχεσθαι· Εὐτυχανὸν δὲ μήτε ἐπισκόπου ἐαυτῷ διεκδικεῖν ὄνομα· ἀλλ' οὐδὲ Μουσαῖον ὡς ἐπίσκοπον νομίζεσθαι· εἰ δὲ λαϊκὴν κοινωνίαν ἀπαυτοῖεν, μὴ χρῆναι αὐτοῖς ἀρνεῖσθαι· πάντες εἰπον, Ἀρέσκει.

entirely reduced to the communion of laymen. And in the first Council of Braga,^d a decree was made, 'prohibiting presbyters either to consecrate the Chrism, or churches, or altars, under pain of deposition from their office: because the ancient canons always forbid it.'

SECT. XLIII.—*And Deacons for assuming offices and privileges above their order and station.*

Deacons likewise were confined to certain offices and stations appropriated to their order; above which if they presumed ambitiously to aspire, and thrust themselves into the presbyter's duty, or any ways insult them; they also incurred the highest censures. The Council of Nice^e takes notice of some such usurpations and abuses committed by deacons; that in some places, the deacons took upon them to distribute the sacrament to presbyters; and to receive it before bishops themselves; and to sit in the midst of the presbyters: which being contrary both to rule and custom, it is ordered that such assuming deacons should be suspended, or "cease from their ministry;" as the words *πεπαύσθω τῆς διακονίας* seem rather to signify. The second Council of Arles^f has a canon to the same purpose, that deacons shall not sit in the 'secretarium,' or vestry,

^d Concil. Bracar. I. c. xxxvii. Si quis presbyter post hoc interdictum ausus fuerit chrisma benedicere, aut ecclesiam aut altare consecrare, a suo officio deponatur. Nam et antiqui canones hoc vetuerunt.

^e Concil. Nic. c. xviii. (Labbé, vol. ii. p. 244.) Ἦλθεν εἰς τὴν ἀγίαν καὶ μεγάλην σύνοδον, ὅτι ἐν τισι τόποις καὶ πόλεσι, πρεσβυτέροις τὴν εὐχαριστίαν οἱ διάκονοι διδόνασιν· ὕπερ οὐτε ὁ κανὼν, οὐτε ἡ συνήθεια παρίδωκε, τοὺς ἐξουσίαν μὴ ἔχοντας προσφέρειν, τούτοις τοῖς προσφέρουσι διδόναι τὸ σῶμα τοῦ Χριστοῦ· κάκεινο δὲ ἐγνωρίσθη, ὅτι ἤδη τινὲς τῶν διακόνων καὶ πρὸ τῶν ἐπισκόπων τῆς εὐχαριστίας ἄπτονται· ταῦτα οὖν ἅπαντα περιηρήσθω· καὶ ἐμμενέτωσαν οἱ διάκονοι τοῖς ἰδίοις μέτροις, εἰδότες ὅτι τοῦ μὲν ἐπισκόπου ὑπηρέται εἰσὶ, τῶν δὲ πρεσβυτέρων ἐλάττους τυγχάνουσι· λαμβανέτωσαν δὲ κατὰ τὴν τάξιν τὴν εὐχαριστίαν μετὰ τοὺς πρεσβυτέρους, ἢ τοῦ ἐπισκόπου διδόντος αὐτοῖς, ἢ τοῦ πρεσβυτέρου· ἀλλὰ μὴδὲ καθῆσθαι ἐν μέσῳ τῶν πρεσβυτέρων ἐξέστω τοῖς διακόνους· παρὰ κανόνα γὰρ καὶ παρὰ τάξιν ἐστὶ τὸ γινόμενον· εἰ δὲ τις μὴ θέλοι πειθαρχεῖν καὶ μετὰ τούτους τοὺς ὅρους, πεπαύσθω τῆς διακονίας.

^f Concil. Arelat. II. c. xv. (Labbé, vol. iv. p. 1013.) In secretario diacono inter presbyteros sedere non liceat; vel corpus Christi, præsente presbytero, tradere non præsumat. Quod si fecerit, ab officio diaconatus abscedat.

among the presbyters; nor presume to deliver the body of Christ, when a presbyter is present. If they do, they shall cease to officiate any longer as deacons.

Thus every order among the clergy had their particular offices assigned them; and not only neglects and omissions of their duty, but intermeddling with offices that did not belong to them, and assuming powers that were foreign to their order, was a sufficient cause of suspension or deprivation. And so I have done with what relates more particularly to the discipline of the clergy.

BOOK XVIII.

OF THE SEVERAL ORDERS OF PENITENTS, AND THE METHOD
OF DOING PUBLIC PENANCE IN THE CHURCH BY GOING
THROUGH THE SEVERAL STAGES OF REPENTANCE.

CHAPTER I.

OF THE SEVERAL ORDERS OF PENITENTS IN THE CHURCH.

SECT. I.—*Penitents divided into four Orders, or Classes.*

WE have hitherto considered the discipline of the Church, as exercised upon obstinate and notorious criminals, in order to bring them to repentance. We are now to examine it again in its progress, as exercised upon penitents, who submitted to the rules of discipline, and see how they were treated in the performance of their penance, from the time of their excommunication to the time of their admission into the Church again. The performance of penance anciently was a matter of considerable length and time, to examine men's behaviour and sincerity, and make them give just testimony and evidence of real sorrow and hearty abhorrence of their sins, to satisfy the Church that they were sincere converts, by submitting to go through a long course of penance, according as the wisdom of the Church thought fit to impose it upon them. And upon this account, the Church was used to divide her penitents into four distinct ranks or classes of different degrees, called by the Greeks, *προσκλαίοντες, ἀκροώμενοι, ὑποπίπτοντες, συνιστάμενοι*; and by the Latins, *Flentes, Audientes, Substrati, and Consistentes*; that is, the Mourners or weepers; the Hearers; the Substrators; and the Co-standers; the meaning of which

names and distinctions shall be explained by and by. Some add to these a fifth order, but without any just ground or reason for it. Bellarmine ^a says, there was a fifth place, of such penitents as had fully completed their penance, and only waited for the time of reconciliation. And the place of these penitents, he says, was called *μέστωσις*, or 'the completion.' Our learned Dr. Cave also ^b slides unwarily into the same mistake, making five orders of penitents, whereof the fifth and last, he says, were called 'Communicantes,' and were admitted to the participation of the holy sacrament. But it is most certain, there never was any such order of penitents, under the name of Communicants, or partakers of the holy sacrament, acknowledged in the Church. For communicants, absolutely so called, as denoting partakers of the eucharist, are every where distinguished from the penitents, and go by other names, *πιστοὶ*, *τέλειοι*, &c. the Faithful, and Perfect: that is, persons not under discipline and public penance, which is an imperfect state of communion, but in the perfect, peaceable, and full communion of the Church: none of which ever go by the name of penitents, in any ancient writer. Some penitents, indeed, are said to communicate imperfectly with the Church in some one particular thing; as the fourth order of penitents, called 'Co-standers,' are said often to communicate in prayers without the oblation or eucharist: but these, as they did not partake of the eucharist, so neither were they ever reputed perfect communicants in the Church, till they were restored to the *τὸ τέλειον*, the complete communion of the faithful at the altar. So that there is no manner of ground for this fifth order of penitents; the invention of which is entirely owing to a mistake, and implies a contradiction.

^a Bellarmin. de Pœnitent. lib. i. c. xxii. tom. iii. p. 959. (p. 408. e. edit. Colon. 1615.) Quintus locus eorum erat, qui jam pœnitentiam expleverant, et solum expectabant tempus reconciliationis: non enim reconciliabantur penitentes solemnî cœrimonia, nisi feria v. in cœna Domini....dicebatur locus horum pœnitentium *μέστωσις*, id est, expletio.

^b Cave, Prim. Christ. lib. i. c. viii. p. 27.

SECT. II.—*The first original of this distinction.*

As to the other four orders of penitents, it is generally agreed among learned men, that the Church observed such a distinction; but how early, is not indisputably certain. Cardinal Bona thinks,^c the distinction of penitential classes was first made about the time of the Novatian schism; that is, about the middle of the third century. And Suicerus^d speaking of the order of penitents, called Hearers, says, there is no mention made of it before the time of Novatus; though otherwise a place for hearing the Scriptures and sermon was allowed in the Church for heathens, Jews, heretics, schismatics, and the first rank of the catechumens; who upon that account were commonly termed Hearers, long before the name was given to any sort of penitents as a distinct order.

SECT. III.—*Of the Flentes, or Mourners.*

But in the third and fourth century, we commonly find the penitents distinguished into four orders; the first of which were the 'Flentes,' or mourners, who were rather candidates of penance, than penitents strictly speaking. Their station was in the church-porch; where they lay prostrate, begging the prayers of the faithful as they went in, and desiring to be admitted to do public penance in the Church. This is what Tertullian means, when he says,^e "They were used to fall down

^c Bon. de Reb. Liturgic. lib. i. c. xvii. § iii. (Antverp. 1677. p. 399.) Observant eruditi, in scriptis Tertulliani, Cypriani, et aliorum patrum, qui ducentis et quinquaginta annis post Christum floruerunt, nullam reperiri pœnitentium in varias classes distinctionem, sive episcoporum prudentiæ commissa tunc fuerit, sive revera post Novati hæresin inceptit, quod probabilius existimo. etc.

^d Suicer. Thesaur. Eccles. (Amstel. 1728.) tom. i. p. 171. voce ἀκρόασις. Secundus pœnitentium gradus, seu ἐπιτηδίων τόπος, vocatur ἀκρόασις... Hæc statio sex hominum genera complectebatur; (teste Morino de Administrat. Pœnit. lib. vi. c. iv.) Ethnicos, Judæos, Hæreticos, Schismaticos, primi generis Catechumenos, et Audientes Pœnitentes: his enim omnibus, quum ad ecclesiam sese conferebant, hic locus assignabatur, iisque omnibus psalmorum cantum, sacræ Scripturæ lectionem, et sermones episcoporum audire licebat: neminem enim ab horum auscultatione prohibebant. Ante exortam Novati hæresin numquam usurpata legitur hæc statio. Vide Constit. Apost. lib. ii. c. xvi. tot.

^e Tertull. de Pœnit. c. ix. Vide et lib. de Pudicit. c. xiii. (Paris. 1664. p. 564. C 9.) Tu quidem pœnitentiam mœchi ad exorandam fraternitatem in ecclesiam inducens, conciliatum et concineratum cum dedecore et horrore compositum prosternis in medium ante viduās, ante presbyteros, omnium [lacrimas

at the presbyter's feet, and kneel to the friends of God, and entreat all the brethren to recommend their petition, and intercede with heaven for them." And so the historian represents the practice^f of Ecebolius the sophist, who having apostatized under Julian, desired to make his recantation, and do penance under Jovian: the first step toward which was, that he cast himself prostrate to the earth before the gate of the Church, crying out, Tread me under foot as salt without savour. Some canons^g pass over this act, as only a preliminary to repentance; but Gregory Thaumaturgus and St. Basil expressly mention it in their canons. Gregory^h says, "The place of the mourners is without the gate of the Church, where the sinner must stand, and beg the prayers of the faithful, as they enter in." And St. Basil thus describes the four stations of penitents: "The first yearⁱ they are to weep before the gate of the church; the second year, to be admitted to hearing; the third year, to [genuflexion, or] repentance [properly so called]; and the fourth year, to stand with the faithful at prayers without partaking of the oblation." And in this sense we may understand that passage in St. Ambrose,^k where speaking to one that had corrupted a virgin, he tells him, his only method now was to implore the help of the saints (meaning, not saints in heaven, but saints on earth in

suadentem] lacinias invadentem, omnium vestigia lambentem, omnium genua detinentem, etc.

^f Socrat. lib. iii. c. xiii. (Vales. Amstel. 1700. p. 151. D.) "Οστις [Ἐκηβόλιος] τοῖς ἡθεσι τῶν βασιλέων ἐπόμενος, ἐπὶ μὲν Κωνσταντίου διαπύρως χριστιανίζειν ὑπεκρίνατο· ἐπὶ δὲ Ἰουλιανοῦ, γοργὸς Ἕλληνας ἐφαίνετο· καὶ αὐθις μετὰ Ἰουλιανὸν, χριστιανίζειν ἤθελε· ῥίψας γὰρ ἑαυτὸν πρηνῆ πρὸ τῆς πύλης τοῦ ἐκκληρίου οἴκου, Πατήσατέ με, ἑβόα, τὸ ἅλας τὸ ἀναίσθητον.

^g Concil. Nic. can. xi. et xii. tot. (Labbé, vol. ii. p. 241.) Concil. Ancyran. c. iv. vi. ix. tot.

^h Gregor. Thaumaturgus. c. xi. (Labbé, vol. i. p. 841.) Ἡ πρόσκλανσις ἔξω τῆς πύλης τοῦ ἐκκληρίου ἐστίν, ἔνθα ἐστῶτα τὸν ἁμαρτάνοντα, χρητῶν εἰσιόντων δέϊσθαι πιστῶν, ὑπὲρ αὐτοῦ εὐχεσθαι.

ⁱ Basil. can. xxii. (Labbé, vol. ii. p. 1736. D 6.) Χρητὸν δὲ τῷ πρώτῳ ἐκβάλλεσθαι τῶν προσευχῶν, καὶ προσκλαίειν αὐτοὺς τῇ θύρᾳ τῆς ἐκκλησίας· τῷ δευτέρῳ δεχθῆναι εἰς ἀκρόασιν· τῷ τρίτῳ δεχθῆναι εἰς μετάνοιαν· τῷ τετάρτῳ, εἰς σύστασιν μετὰ τοῦ λαοῦ, ἀπεχομένους τῆς προσφορᾶς. Vide can. lvi. lviii. lvi. lix. lxiv. lxvi. lxxv. ibid.

^k Ambros. de Virgin. Lapsu, c. ix. (Paris. 1836. vol. iii. p. 329.) jaceas sub pedibus electorum.

the Church) and “to cast himself at the feet of the elect:” which seems plainly to allude to this custom. In like manner, Eusebius¹ describing the behaviour of Natalis the confessor upon his return to the Church from the Theodosian heretics (who had allured him by great rewards to become bishop of their party) says, he came in sackcloth and ashes, and with tears “cast himself at the feet” of Zephyrinus then bishop of Rome; and not only laid himself under the feet of the clergy, but the laity also; endeavouring to move the merciful Church of the merciful Christ to compassion with his tears, and by showing them the marks of the stripes which he had endured for the confession of Christ. Where “falling at the feet” of the laity, as well as the clergy, can hardly refer to any thing else beside this preparatory introduction to penance, which the mourners used in the church-porch, when they cast themselves before the people, to beg their prayers, and obtain admission into the first apartment of the Church.

SECT. IV.—*Of the Audientes, or Hearers.*

When their petition was thus accepted, they were said to be admitted to penance; that is, to have liberty to pass through the several stages of discipline, which the Church appointed for the probation and trial of such as pretended real sorrow for any notorious offence, and the scandal given to the Church by the commission of it. This is the true meaning of those common phrases, which so often occur in the writings of the ancients, ‘*pœnitentiam dare,*’ and ‘*pœnitentiam accipere,*’ giving and receiving penance; that is, granting or accepting the conditions of public penance in the Church. Now when men were admitted to this state, they were termed ‘*Audientes,*’ or Hearers, which was the second order of penitents; or, if we please, the first of those that had any privilege to enter the Church. These were allowed to stay and hear the scriptures read, and the

¹ Euseb. lib. v. c. xxviii. (Vales. 1695. p. 160. A 12.) “Ὡστε ἔωθεν ἀναστῆναι, καὶ ἐνδυσάμενον σάκκον, καὶ σποδὸν καταπασάμενον, μετὰ πολλῆς σπουδῆς καὶ δακρύων προσπεσεῖν Ζεφυρίνῳ τῷ ἐπισκόπῳ, κυλιόμενον ὑπὸ τοῦς πόδας οὐ μόνον τῶν ἐν τῷ κλήρῳ, ἀλλὰ καὶ τῶν λαϊκῶν συγχέαι τε τοῖς δάκρυσιν τὴν εὐσπλαγχὸν ἐκκλησίαν τοῦ ἐλεήμονος Χριστοῦ· πολλῇ τε τῇ δεήσει χρῆσάμενον, δεῖξαντά τε τοὺς μῶλωπας ὧν εἰλήφει πληγῶν, μόλις κοινωνηθῆναι.

sermon preached; but were obliged to depart before any of the common prayers began, with the rest of those catechumens and others, who went by the general name of Hearers only. There is frequent mention made of these in the ancient canons,^m prescribing how long penitents were to continue in this station, a year, or two, or three, according as their offence required. Gregory Thaumaturgus particularly assigns them their station in the narthex,ⁿ or lowest part of the church, where they stood to hear with the catechumens of the first or second order, called 'Hearers,' and were dismissed with them as soon as the sermon was ended, before any prayers begun. St. Basil^o says expressly, they were 'Hearers' only, and not allowed to be present at any prayers whatsoever. Which agrees exactly with the order in the Constitutions,^p where the deacon is appointed to make proclamation, as soon as the sermon was ended, "Ne quis Audientium, ne quis Infidelium:" let none of the Hearers, let none of the unbelievers be present.

SECT. V.—*Of the Kneelers, or Prostrators.*

And in this they were distinguished from the penitents of the third order, who were called *γονυκλίνοντες* and *ὑποπίπτοντες* by the Greeks, and 'Genuflectentes,' or 'Substrati,' by the Latins; that is, Kneelers or prostrators; because they were allowed to stay and join in certain prayers particularly made for them, whilst they were kneeling upon their knees. Bellarmine commits a strange mistake, and betrays a great

^m Concil. Nic. c. xi. (Labbé, vol. ii. p. 241.) "Ὅσοι γνησίως μεταμέλονται, τρία ἔτη ἐν ἀκρωμένοις ποιήσουσιν, κ. τ. λ.—Can. xii. (p. 241.) Δέκα ἔτη ὑποπίπτέωσαν, μετὰ τὸν τῆς τριετοῦς ἀκρόασεως χρόνον... Οὗτοι πληρώσαντες τὸν χρόνον τὸν ὀρισμένον τῆς ἀκρόασεως, τῶν εὐχῶν κοινωνήσουσι.

ⁿ Gregor. Thaum. c. xi. (Labbé, vol. i. p. 841.) Ἡ ἀκρόασις ἐνδοθι τῆς πόλης ἐν τῷ νάρθηκι· ἐνθα ἰσθάναι χρὴ τὸν ἡμαρτηκότα, ἕως τῶν κατηχουμένων, καὶ ἐντεῦθεν ἐξέρχεσθαι· ἀκούων γάρ, φησι, τῶν γραφῶν καὶ τῆς διδασκαλίας, ἐκβαλλέσθω, καὶ μὴ ἀξιούσθω προσευχῆς.

^o Basil. can. lxxv. (Labbé, vol. ii. p. 1753. C.) Μετὰ τοῦτο ἄλλην τριετίαν εἰς ἀκρόασιν μόνην παραδεχθήτω, καὶ ἀκούων τῆς γραφῆς καὶ τῆς διδασκαλίας ἐκβαλλέσθω, καὶ μὴ καταξιούσθω προσευχῆς.

^p Constitut. lib. viii. c. v. (Labbé, vol. i. p. 463. B 2.) Πληρώσαντος αὐτοῦ τὸν τῆς διδασκαλίας λόγον... ὁ διάκονος, ἐφ' ὕψηλόν τινας ἀνελθὼν, κηρυττέτω, Μὴ τις τῶν ἀκρωμένων, μὴ τις τῶν ἀπίστων.

deal of ignorance in the Greek tongue, whilst he explains the name *ὑπόπτωσις* to be the station of those^q who were occupied in 'the contemplation' of heavenly things; taking the word to come from *ὄπτομαι*, to see or contemplate: whereas every one knows it comes from *ὑποπίπτω*, to kneel, or fall down and lie prostrate on the ground; whence they were properly denominated Kneelers or Prostrators. These were allowed to stay in the Church after the Hearers were dismissed, and hear the prayers that were offered up particularly for them by all the people, and receive imposition of hands from the bishop, who also made a particular prayer for them, which was styled, 'the imposition of hands upon the penitents,' and 'the bishop's benediction.' The Council of Laodicea^r speaks of these prayers under this very title, calling them "the prayers of those that were under penance and imposition of hands." St. Chrysostom also mentions them more than once,^s styling them "the prayers for the penitents, and the prayers full of mercy;" because in them intercession was made to God for the penitents by the common voice both of the minister and people. The author of the Constitutions^t has the forms of these prayers, which I omit here, because they have been recited at length in a more proper place,¹ where we give an account of the ancient liturgy or service of the Church. The station of this sort of penitents was within the nave or body of the

^q Bellarmin. de Poenit. lib. i. c. xxii. tom. iii. p. 959. (p. 408, edit. Colon. 1615.) Tertius locus eorum erat, qui admittebantur, tum ad audiendum, tum etiam ad orandum cum Competentibus, non tamen ad sacrificium missæ cum Fidelibus: et hic locus dicebatur *ὑπόπτωσις*, quasi contemplatio rerum super-narum.

^r Can. Laodic. c. xix. (Labbé, vol. i. p. 1500.) Μετὰ τὸ ἐξελεῖν τοὺς κατη-
χομένους, τῶν ἐν μετανοίᾳ τὴν εὐχὴν γίνεσθαι· καὶ τούτων προσελθόντων
ὑπὸ χεῖρα, καὶ ὑποχωρησάντων, οὕτως τῶν πιστῶν τὰς εὐχὰς γίνεσθαι τρεῖς,
κ. τ. λ.

^s Chrysost. Homil. xviii. in 2 Cor. p. 873. (p. 673, edit. Francof. 1697.) Ὑπὲρ
τῶν ἐνεργουμένων, ὑπὲρ τῶν ἐν μετανοίᾳ, κοινὰ καὶ παρὰ τοῦ ἱερέως καὶ παρ'
αὐτῶν γίνονται αἱ εὐχαί.—Idem, Homil. lxxii. in Matth. p. 624. A. (p. 768,
edit. Francof.) Ἡ δευτέρα δέησις, ὑπὲρ ἐτέρων, τῶν ἐν μετανοίᾳ, πολλὸν τὸ ἰδιος
ἐπιζητοῦσα.

^t Constit. lib. viii. c. viii. et ix. (Labbé, vol. i. p. 467.)

¹ Lib. xiv. cap. v. § x. vol. iv. p. 630.

church,^u near unto the ambon, or reading-desk, where they received the bishop's imposition of hands and benediction. Some canons^v style this order simply 'the Penitents,' by way of emphasis, without any other distinction: because they were the most noted; and the greatest part of penitential acts belonged to them whilst they were in this station; of which I shall give a more particular account in the following chapters.

SECT. VI.—*Of the Consistentes, or Co-standers.*

The last order of penitents were the *συνιστάμενοι*, 'Consistentes,' or Co-standers, so called from their having liberty (after the other penitents, energumens, and catechumens, were dismissed) to stand with the Faithful at the altar, and join in the common prayers, and see the oblation offered; but yet they might neither make their own oblations, nor partake of the eucharist with them. This the Council of Nice^x calls "communicating with the people in prayers only, without the oblation:" which for the crime of idolatry was to last for two years, after they had been three years Hearers, and seven years Prostrators before. The Council of Ancyra^y often uses the same phrase of "communicating in prayers only," and "communicating without the oblation:" and in one canon^z expressly styles this order of penitents the *συνιστάμενοι*, 'Co-standers;'

^u Gregor. Thaum. c. xi. (Labbé, vol. i. p. 841.) Ἡ δὲ ὑπόπτωσις, ἵνα ἴσωθεν τῆς πόλης τοῦ ναοῦ ἱστάμενος, μετὰ τῶν κατηχουμένων ἐξέρχεται.

^v Concil. Laodic. c. xix. See preceding note (r).

^x Concil. Nicæn. c. xi. (Labbé, vol. ii. p. 33.) Δύο ἔτη χωρὶς προσφορᾶς κοινωνήσουσι τῷ λαῷ τῶν προσευχῶν.

^y Concil. Ancy. c. iv. (Labbé, vol. i. p. 1457.) Περὶ τῶν πρὸς βίαν θυσάντων, ἐπὶ δὲ τούτοις καὶ τῶν δειπνησάντων εἰς τὰ εἶδωλα, ὅσοι μὲν ἀπαγόμεινοι, καὶ σχήματι φαιδρότερόν ἀνῆλθον, καὶ ἐσθῆτι ἐχρήσαντο πολυτελεστέρα, καὶ μετέσχον τοῦ παρασκευασθέντος δείπνου ἀδιαφόρως· ἔδοξεν ἱκαντὸν ἀκροῶσθαι, ὑποπεσεῖν δὲ τρία ἔτη, εὐχῆς δὲ μόνης κοινωνῆσαι ἔτη δύο, καὶ τότε ἐλθεῖν ἐπὶ τὸ τέλειον.—Can. viii. Οἱ δὲ δεύτερον καὶ τρίτον θύσαντες μετὰ βίας, τετραετιαν ὑποπεσέτωσαν, δύο δὲ ἔτη χωρὶς προσφορᾶς κοινωνήσωσαν, καὶ τῷ ἱερέϊ τελείως δεχθήτωσαν.—Can. xvi. Πάντε καὶ δέκα ἔτεσιν ὑποπεσόντες κοινωνίας τυγχανέτωσαν τῆς εἰς τὰς προσευχάς.—Can. xxiv. Οἱ καταμαντευόμενοι ... ὑπὸ τὸν κανόνα πιπτέτωσαν τῆς πενταετίας κατὰ τοὺς βαθμοὺς ὠρισμένους, τρία ἔτη ὑποπτώσεως, καὶ δύο ἔτη εὐχῆς χωρὶς προσφορᾶς.

^z Concil. Ancy. can. xxv. (Labbé, vol. i. p. 1464.) Οἱ συνειδότες ἐκελεύσθησαν ἐν δεκαετίᾳ δεχθῆναι εἰς τοὺς συνεστῶτας, κατὰ τοὺς ὠρισμένους βαθμοὺς.

by which name they are also distinguished in the canons of Gregory Thaumaturgus,^a and frequently in the canons of St. Basil.^b In all which we may observe, that the word ‘communicating’ does not always signify partaking of the eucharist, but communicating in prayers only, without the oblation ; which was but an imperfect sort of communion : in opposition to which, when they were admitted again to the eucharist, they were said ἐλθεῖν ἐπὶ τὸ τέλειον,^c “to attain to perfection ;” the participation of the eucharist being the highest state, or consummation and perfection of a Christian. This is the short account of these several orders of penitents, and their stations in the Church : but to have a complete view of the ancient manner of performing penance, it will be necessary to consider both the ceremony of admission to this state, and the several acts of penance which they performed during their progress or passage through the several stages of it ; as also the length of time, or the duration and continuance of this exercise ; which was often for a course of many years, and sometimes to the hour of death, without any remission or relaxation. The considering all which will give us an exact and clear idea of the ancient discipline, and show us at once both the severity, and prudence, and purity of the Church, in proceeding with sharpness against great delinquents, as well to examine the sincerity of their repentance, as to take off the scandal cast upon religion, and prevent their backsliding and relapses for the future. Of these things, therefore, in the following chapters.

^a Gregor. Thaum. c. xi. (Labbé, vol. i. p. 841.) Ἡ σύστασις, ἵνα συνίσταται τοῖς πιστοῖς, καὶ μὴ ἐξέρχεται μετὰ τῶν κατηχουμένων.

^b Basil. can. xxii. vid. § iii. sub litt. (i) pag. 446.—Ibid. can. lvi. Συνστήσεται μόνον τοῖς πιστοῖς, προσφορᾶς δὲ οὐ μεταλήψεται.—Can. lvii. Ἐν ἐνιαυτῷ σταθήσεται μόνον.—Can. lviii. Ἐν δ'. μὲν ἔτεσι προσκλαίων ἔσται ἐν ε'. δὲ ἀκρούμενος ἐν δ'. ὑποπίπτων ἐν δυοὶ συνεστῶς ἀνευ κοινωνίας. (Labbé, vol. ii. p. 1749.) Vid. et can. lix. lxi. lxvi. lxxv.

^c Concil. Ancyran. c. iv. See preceding page, note (y). Can. v. (Labbé, vol. i. p. 1457.) Τῷ τρίτῳ κοινωνησάτωσαν χωρὶς προσφορᾶς, ἵνα τὸ τέλειον τῇ τετραερίᾳ λάβωσι.—Can. vi. Ὡς τῶς ἐλθεῖν ἐπὶ τὸ τέλειον.

CHAPTER II.

OF THE CEREMONIES USED IN ADMITTING PENITENTS TO DO PUBLIC PENANCE, AND THE MANNER OF PERFORMING IT IN THE CHURCH.

SECT. I.—*Penitents first admitted to Penance by Imposition of Hands.*

WHEN a penitent desired to be admitted to do public penance, and his petition was accepted, the first ceremony that was used, was to grant him penance, as the phrase was, “by imposition of hands.” For this was a ceremony used almost in all religious actions, when any person was solemnly to be recommended to God in prayer. There were many other impositions of hands given them daily, when they came into the third order of penitents; but this was previous to their admission, or rather the form and ceremony of it, when they were first taken in to be hearers in the Church. For this we have the plain testimony of the Council of Agde,^a which orders, that “penitents at the time when they desire to be admitted to do penance, shall receive imposition of hands from the bishop, and sackcloth to cover their heads.”

SECT. II.—*And obliged to appear in Sackcloth, and Ashes upon their Head.*

In which canon we may observe another rite and custom of common use in this matter: which was, that penitents were obliged to appear in sackcloth, as an indication and token of their great sorrow and indignation against themselves. Other writers join sackcloth and ashes together: for so Eusebius de-

^a Concil. Agath. c. xv. (Labbé, vol. iv. p. 1385.) Pœnitentes tempore, quo pœnitentiam petunt, impositionem manuum et cilicium super caput a sacerdote consequantur.

scribing the penitential mien of Natalis the confessor, upon his return from the Theodotian heretics to the Church, says,^b “he came clothed in sackcloth and sprinkled with ashes.” And St. Ambrose, writing to a virgin that had lapsed, plainly alludes to both customs, when he tells her^c “she must macerate her whole body, sprinkling it with ashes, and covering it with sackcloth. In like manner Tertullian,^d discoursing of public penance, says, “it obliges the sinner to change both his diet and his habit, to defile his body, and lie in sackcloth and ashes.” Neither were the greatest personages exempted from this ceremony. For St. Jerom,^e describing the penance of Fabiola, one of the greatest ladies in Rome, says, she stood in sackcloth in the order of penitents in the Lateran Church, to make public confession of her fault in the sight of all the people of Rome: and they continued the use of it during their passage through all the stages of repentance. For even at last they appeared in sackcloth, when the course of their whole penance was ended, and “in this garb,” as the Council of Toledo^f words it, “were absolved, and reconciled to the altar of God.” And this is always the meaning of those expressions, which speak of penitents changing their garb, and taking the mournful habit of repentance. Some think this was always done precisely on Ash-Wednesday, or the beginning of Lent, which from thence was called ‘Dies Cinerum,’ the day of sprinkling ashes, and ‘Caput Jejunii,’ the head or beginning of the fast. But this,

^b Euseb. lib. v. c. xxviii. See preceding chapter, § iii. note (1) p. 447.

^c Ambros. de Laps. Virgin. c. viii. (Paris. 1636. vol. iii. p. 328.) Totum corpus injuriis et jejuniis maceretur, cinere adpersum et opertum cilicio.—Vide Cyprian. de Lapsis. (Oxon. 1682. p. 137.) (p. 98, edit. Fell. Amstelod. 1700.) Orare oportet impensius et rogare, diem luctu transigere, vigiliis noctes ac fletibus ducere, tempus omne lacrimosis lamentationibus occupare, stratos solo adhærere cineri, in cilicio et sordibus volutari.

^d Tertull. de Pœnit. c. ix. (Paris. 1664. p. 117. A 6.) De ipso quoque habitu atque victu mandat, sacco et cineri incubare, corpus sordibus obscurare, etc.

^e Hieron. epist. xxx. epitaph. Fabiolæ. Quis hoc crederet, ut...saccum indueret, ut errorem publice fateretur; et tota urbe spectante Romana, ante diem Paschæ, in Basilica Laterani...staret in ordine penitentium, etc. (Venet. 1766. vol. i. p. 459. D 8.)

^f Concil. Tolet. I. c. ii. (Labbé, vol. ii. p. 1224.) Qui, sub cilicio, divino fuerit reconciliatus altario.

for ought I can find, is founded upon very uncertain tradition, and the authority of modern authors; there being a perfect silence in the more ancient writers about it. Bellarmine cites the authority of the Council of Agde^g for it: but this is only to be found in Gratian; ^h for there is no such canon in the tomes of the Councils. And the Roman correctors of Gratian ⁱ own as much, referring us to the Roman Pœnitentiale, and Pontifical, and the Ordo Romanus, for the substance of it. And so Baluzius ⁱ says, “Burchardus has it out of the Roman Pœnitentiale, which is of a much later date:” neither does the canon, as cited by Gratian, prove the thing in question, but only describe the ceremony that was used toward penitents in the beginning of Lent, whether they were then first admitted to penance, or had been admitted before: which every thing supposes, that penance might be imposed at other times, as well as the first day of Lent, as the old Gloss upon Gratian rightly observes. The ceremony, as it is described by Gratian, seems only to be an account of the discipline used towards penitents in Lent, different from their treatment at other

^g Bellarmin. de Pœnitent. lib. i. c. xxii. Quod attinet ad tempus, imponatur pœnitentia publica feria quarta ante primam dominicam quadragesimæ, quæ dicitur, ‘In capite jejunii,’ ut testatur concilium Agathense cap. xv., teste Gratiano dist. l. can. ‘In capite:’ nam ea verba non inveniuntur in vulgatis canonibus ejus concilii. Habemus adhuc vestigium hujus ritus in consecratione et adspersione cineris, quæ eo die fieri solet. Et quamvis tempus pœnitendi aliis longius, aliis brevius præscriberetur, ut trium, septem, decem aut plurium annorum; tamen singulis annis, in v. feria majoris hebdomadæ, omnes reconciliabantur, et communicabant.

^h Grat. distinct. l. cap. lxiv. See note in the following page. In capite, &c.

ⁱ Correct. Roman. ad h. l. Ex Agathensi etiam citant Burchardus et Ivo, et Rhebaldus cardinalis (qui tempore Paschalis pontif. claruit) in libro suo, de pœnitentia publice non iteranda. In uno tamen manuscripto Burchardi exemplari citatur ex Pœnitentiali Romano. Sententia vero hujus capituli, magna ex parte, habetur in Pontificali et Ordine Romano, a p. 24 usque ad 30.

ⁱ Baluz. not. ad Gratian. p. 464. (p. 745, edit. Duisburg. 1677. 8vo.) *In capite.*] Regino (lib. i. cap. 91.) citat istud caput ex eodem concilio, ex quo retulerat caput quod præcedit, id est, ex concilio Agathensi, ubi non exstat. Item Burchardus, lib. 9. c. 26. in editis. Admonent tamen correctores Romani, in uno manuscripto Burchardi exemplari citari ex Pœnitentiali Romano. Quo etiam modo citatur in alio antiquissimo Burchardi exemplari, quod exstat in bibliotheca illustrissimi viri Dionysii Talorii, regii advocati in parlamento Parisiensi.

seasons of the year. "For in 'Capite Quadragesimæ,'¹ on Ash-Wednesday, or the first day of Lent, all penitents, who either then were admitted to penance, or had been admitted before, were presented to the bishop before the doors of the Church, clothed in sackcloth, barefooted, and with countenances dejected to the earth, confessing themselves guilty both by their habit and their looks. They were to be attended by the deans or archpresbyters of the parishes, and the penitential presbyters, whose office was to inspect their conversation, and enjoin them penance according to the measure of their faults by the degrees of penance that were appointed. After this, they bring them into the Church; and then the bishop with all the clergy falling prostrate on the ground, sing the seven penitential psalms with tears for their absolution. After this, the bishop, rising from prayer, gives them imposition of hands; sprinkles them with holy water; puts ashes upon their heads; and then covers their heads with sackcloth; declaring with sighs and groans, that as Adam was cast out of Paradise, so they for their sins are cast out of the Church: then he commands the inferior ministers to expel them out of the doors of the Church; and the clergy follow them, using this responsory, 'In the sweat of thy face, shalt thou eat thy bread: for dust thou art, and unto dust thou shalt return.' In the end of

¹ In capite Quadragesimæ, (sive in Die Cinerum) omnes pœnitentes, qui publicam suscipiunt aut susceperunt pœnitentiam, ante fores ecclesiæ se repræsentant episcopo civitatis, sacco induti, nudis pedibus, vultibus in terram demissis, reos se esse ipso habitu et vultu protestantes. Ibi adesse debent decani, id est, archipresbyteri parochiarum, et presbyteri pœnitentium, qui eorum conversationem diligenter inspicere debent, et secundum modum culpæ pœnitentiam per prefatos gradus injungere. Post hæc eos in ecclesiam introducunt, et cum omni clero septem pœnitentiales psalmos in terra prostratus episcopus cum lacrimis pro eorum absolutione decantet: tunc resurgens ab oratione, juxta quod canones jubent, manus eis imponant, aquam benedictam super eos spargat, cinerem prius mittat, deinde cilicio capita eorum operiat: et cum gemitu et crebris suspiriis denuntiet eis, quod sicut Adam projectus est de paradiso, ita ipsi ab ecclesia pro peccatis abjiciuntur: posthæc jubeat ministris, ut eos extra januas ecclesiæ expellant; clerus vero prosequatur eos cum responsorio: 'In sudore vultus tui vesceris pane tuo,' etc., ut videntes sanctam ecclesiam pro facinoribus suis tremefactam atque commotam, non parvi pendant pœnitentiam. In sacra autem Domini cœna (hoc est, feria quarta magnæ hebdomadæ) rursus ab eorum decanis et eorum presbyteris ecclesiæ liminibus præsententur.

Lent, on the Thursday before Easter, called ‘Coena Domini,’ the deans and presbyters are to present them before the gates of the Church again.” Thus far Gratian’s account, which is manifestly not a determining the time of imposing penance to be the first day of Lent, but a description of the manner of treating all penitents in Lent, whatever time their penance was imposed upon them. And as there are some things in it conformable to the ancient discipline, so there are many things in it that plainly discover it to have relation to a more modern practice. For there was no use of holy water in the ancient discipline ; nor seven penitential psalms in the ancient service, but only one penitential psalm, that is the fifty-first, commonly distinguished by the name of ‘Psalmus Exomologeseos,’ the penitential psalm, or psalm of confession. Neither was Ash-Wednesday anciently the first day of Lent, till Gregory the Great first added it to Lent, to make the number of fasting-days completely forty, which before were but thirty-six. Neither does it appear, that anciently the time of imposing penance was confined to the beginning of Lent ; but penance was granted at all times, whenever the bishop thought the sinner qualified for it : as St. Ambrose admitted Theodosius to penance at Christmas ; and there are many examples of the like nature. The circumstance, therefore, of time must be passed over as unlimited and uncertain. Only whenever penance was imposed, the sinner was obliged to change his habit, and appear in a mournful dress, agreeable to a state of repentance : which is all that can be concluded from any of the ancient canons, which speak of the circumstances of repentance.

SECT. III.—*And to cut off their Hair, or go veiled, as another Token of Sorrow and Mourning.*

At the same time that they changed their habit, some canons obliged penitents to cut off their hair, or shave their heads, if they were men, as another indication of sorrow and mourning. And women were enjoined to wear a penitential veil ; and either to cut off their hair, or appear with it dishevelled, and hanging loose about their shoulders ; which

was another token of deep sorrow and affliction. The Council of Agde^k made a peremptory order, that "if any who desired to be admitted to penance, refused to cut off their hair, they should be rejected." And the third Council of Toledo^l has a like order, that "when any one desires penance of the bishop, he shall first poll him, and make him change his habit for sackcloth and ashes, and so admit him to do penance." Optatus alludes to this custom, when speaking of the rudeness of the Donatists in bringing some Catholic bishops to do penance,^m that contrary to all rules they had shaved the heads of the priests: "They who ought to prepare ears to hear their instructions, had prepared razors to sin against them;" that is, they had made them do public penance in order to retain their clerical office, which ought not to be done: for if a clergyman was to do public penance, he ought first to be degraded for his offence, and do penance only as a layman. As to women, the custom was to put them on a penitential veil, which is expressly required by the third Council of Toledo,ⁿ appointing, that no woman should be admitted to do penance, except she was first veiled, and had changed her habit. Whence Optatus calls such veils, 'the veils of repentance;' objecting^o it to the Donatists, that they had forced the Catholic virgins, who were innocent, to submit to their imposition of hands, and wear upon their heads the veils of repentance. St. Ambrose seems to intimate, that they also had their heads sometimes shorn or shaven. For, writing to a virgin who had committed forni-

^k Concil. Agath. c. xv. (Labbé, vol. iv. p. 1386.) *Pœnitentes si comas non deposuerint, aut vestimenta non mutaverint, abjiciantur.*

^l Concil. Tolet. III. c. xii. (Labbé, vol. v. p. 1012.) *Quicumque ab episcopo penitentiam postulat, . . . prius eum tondeat, [aut in cinere et cilicio habitum mutare faciat,] et sic pœnitentiam ei tradat.*

^m Optat. lib. ii. p. 58. (p. 54, edit. Paris. 1679.) *Ubi vobis mandatum est radere capita sacerdotum? . . . Qui parare debebas aures ad audiendum, parasti novaculam ad delinquendum.—Vide Cyprian. de Laps. (p. 98, edit. Amstelod.) In cilicio et sordibus volutari; post indumentum Christi perditum; nullum hic jam velle vestitum, etc. (Oxon. 1682. p. 137. at bottom.)*

ⁿ Concil. Tolet. III. c. xii. (Labbé, vol. v. p. 1012.) *Si mulier fuerit, non accipiat pœnitentiam, nisi prius [aut velata fuerit, aut] mutaverit habitum.*

^o Optat. lib. ii. p. 59. *Extendistis manum, et super omne caput mortifera velamina prætendistis. Et p. 61. (p. 58. cit. edit.) Utique sub cubito et sub manibus vestris, quum super earum capita velamina pœnitentiæ tenditis.*

cation, he bids her cut off^p her hair, which through vain glory had given her occasion to sin. But this was no general custom; for St. Jerom,^q describing the penance of Fabiola, says, "she did it 'sparso crine,' with her hair dishevelled, the bishop and presbyters and all the people weeping with her." Whence we may observe also, with what seriousness, gravity, and concern, this whole matter was transacted. For not only the party under penance took shame to himself, and by these ceremonies expressed his sorrow with tears; but the whole Church, with a compassionate fellow-feeling, took share in his grief, suffering with a suffering member, and weeping and mourning together with him. After this manner Socrates^r represents the practice of the Roman Church in this exercise, telling us, that not only the penitents prostrated themselves upon the ground with lamentation and wailing; but that the bishop meeting them in their proper station, fell to the earth likewise with tears, whilst all the congregation wept with them. Then the bishop rose up, and raised the penitents likewise, and made the usual prayers for them before the mystical service began, and so dismissed them from the Church. This was a very solemn way of performing penance, that made a just impression upon the whole Church, whilst every man was touched with a sense of his brethren's folly, and made their sins not matter of sport or ridicule, but an occasion of expressing his pity and compassion towards members of the same body; weeping with those that wept, and joining his prayers and tears with theirs, to besiege heaven with united force, and obtain of God mercy and pardon for them.

^p Ambros. de Virgin. Laps. c. viii. Amputentur crines, qui per vanam gloriam occasionem luxuriæ præstiterunt. (Paris. 1836. vol. iii. p. 32.)

^q Hieron. Epist. xxx. (Venet. vol. i. p. 460 A.) Ut staret in ordine poenitentium, episcopo, presbyteris, et omni populo collacrimantibus, sparsum crinem, ora lurida, squalidas manus, sordida colla submitteret?

^r Sozom. lib. vii. c. xvi. (Vales. 1700. p. 590. A. 5.) "Ἦδη δὲ πληρωθείσης τῆς τοῦ Θεοῦ λειτουργίας, μὴ μετασχόντες ὧν μύσταις θίμις, σὺν οἰμωγῇ καὶ ὀδυρμῷ πρηνεῖς ἐπὶ γῆς ῥίπτουσι σφᾶς· ἀντιπρόσωπος δὲ δεδακρυμένος ὁ ἐπίσκοπος προσδραμὼν, ὁμοίως ἐπὶ τοῦ ἰδάφου πίπτει· σὺν ὀλολυγῇ καὶ τὸ πᾶν τῆς ἐκκλησίας πληθος δακρύων ἐμπιπλάται· τὸ μετὰ τοῦτο δὲ, πρῶτος ὁ ἐπίσκοπος ἐξαισίσταται, καὶ τοὺς κειμένους ἀνίστησι· καὶ ὃ προσῆκεν ὑπὲρ ἡμαρτηκότων μεταμελουμένων εὐξάμενος, ἀποπέμπει.

SECT. IV.—*Penitents to abstain from Bathing, and other innocent Diversions of Life, as Feasting, &c.*

Socrates takes notice in the same place, that penitents were used to abstain from bathing and other innocent diversions of life. For, he says, they exercised themselves willingly in private, ἡ νηστείας, ἡ ἀλουσίας, ἡ ἐδεσμάτων ἀποχῆ, “with fastings, and neglect of bathing, and abstinence from meats,” as long as the bishop thought fit to enjoin them.¹ Which is also intimated by Pacian, when he brings in the penitent² declaring, that “if any one called him to the bath, he refused such delights; if any one called him to a feast, his answer was, ‘Those things belong to the happy; but as for me, I have sinned against the Lord, and am in danger of eternal destruction.’”

SECT. V.—*To observe all the public Fasts of the Church.*

And as they thus exercised themselves in private abstinence, mortification, and fasting; so they were more especially obliged to observe all the public fasts of the Church. There might be some reasons to excuse others, and dispense with the rigour and severity of this exercise in some cases and circumstances, requiring a little abatement in the laws of fasting: but penitents were tied up to the strictest observance of them. And therefore the fourth Council of Carthage³ made a decree, “That penitents should present themselves at Church on all times of fasting, and receive imposition of hands from the priests.”

¹ Sozomen. *ibid.* (p. 590. B 2.) Καθ’ ἑαυτὸν δὲ ἔκοντὶ ταλαιπωρούμενος ἕκαστος, ἡ νηστείας, ἡ ἀλουσίας, ἡ ἐδεσμάτων ἀποχῆ, ἡ ἐτέροις οἷς προστέτακται, περιμένει τὸν χρόνον, εἰς ὅσον αὐτῷ τέταχεν ὁ ἐπίσκοπος.

² Pacian. *Parænes. ad Pœnitent.* *Bibl. Patr.* tom. iii. p. 73. (tom. iv. p. 317, c. edit. Lugdun. 1677.)—Vide Tertull. de Pœnit. cap. ix. Plerumque vero jejuniis preces alere, etc.—Cyprian de Lapsis (Oxon. 1682. p. 135.) (p. 98, edit. Amstel. Fell.) Orare oportet impensius et rogare . . . post diaboli cibum malle jejunium, etc.

³ Concil. Carth. IV. can. lxxx. (Labbé, vol. ii. p. 1206.) Omni tempore jejunii, manus pœnitentibus a sacerdotibus imponatur.

SECT. VI.—*To restrain themselves in the use of the conjugal state.*

Some directions are also given, at least by private writers, that penitents should abstain from the use of the marriage-bed, during their continuance in the state of public penance. This is a rule laid down by St. Jerom,^u that “in the time of fasting, the bridegroom and the bride should sequester themselves from one another. For he that says, he does penance by abstinence from meat, and fasting, and alms, in vain uses this speech, except he go out of his chamber, and make his fast holy and pure by adding continence to his repentance.” And so St. Ambrose reckons this a necessary part of self-denial upon such an occasion. “Does any one ^v think that to be repentance, where a man is engaged in an ambitious pursuit of honour, and indulges himself in the use of wine and the marriage-bed? Men must renounce the world, abridge themselves of sleep which nature requires, entreat the favour of God with sighing and mourning and earnest prayers; and live so as to die to the use of this life, and deny themselves, and become wholly new men.”

SECT. VII.—*For which reason no married persons were admitted to Penance, but by consent of both parties.*

I cannot be positive, and therefore will not venture to affirm it absolutely, that this was imposed by any public rule of the Church, because I remember no canon at present that precisely enjoins it. The only thing that may incline a man to think there was such a rule, is, that there is another rule, of

^u Hieron. in Joël, cap. ii. (Venet. 1768. vol. vi. p. 193. A 7.) In tempore jejunii, . . . non serviat sponsus et sponsa operi nuptiali . . . Qui in castigatione victus, et jejunio atque eleemosynis dicit se agere pœnitentiam, frustra hoc sermone promittit, nisi egrediatur de cubili suo, et sanctum primumque jejunium pudica expleat pœnitentia.

^v Ambros. de Pœnit. lib. ii. c. x. (Paris. 1836. vol. iv. p. 117.) An quisquam illam pœnitentiam putat, ubi acquirendæ ambitio dignitatis, ubi vini effusio, ubi ipsius copulæ conjugalibus usus? Renuntiandum sæculo est: somno ipsi minus indulgendum, quam natura postulat, interpellandus est gemitibus, interrumpendus est suspiriis, sequestrandus est orationibus: vivendum ita, ut vitali huic moriamur usui, se ipsum sibi homo abneget, et totus immutetur.

near relation to it, and which seems to be grounded upon the presumption of such a practice: that is, an order we find in the second Council of Arles,^x that “penance should not be granted to any married people, man or woman, without the desire and consent of both parties;” this seems to be grounded upon a supposition, that penitents were under obligation to contain during the time of their penance; and if the innocent party would not consent, no force or compulsion could be laid upon them. For the laws of matrimony are prior to any rules that could be made about the exercise of public discipline by the Church.

SECT. VIII.—*Penitents not allowed to marry in the time of their Penance.*

It is another rule of the same Council, proceeding upon the like reason and supposition of perfect continency in public penitents, that no penitent, man or woman, should have liberty to marry, whilst they were doing penance:^y and if they did, they should be rejected, and debarred even from entering under the roof of the Church. Or if they held any suspicious conversation, or unlawful familiarity with strangers in this state, they were liable to the same censure. For all this was thought improper in their circumstances, and inconsistent with the profession of a solemn and deep repentance.

SECT. IX.—*Penitents obliged to pray kneeling on all Festivals and days of relaxation.*

And whereas all others might pray standing on all festivals, on the Lord’s-Day, and the commemorations of martyrs, and the whole fifty days between Easter and Pentecost; which were called days of relation, and the standing posture was appointed to be used on them by the laws of the Church; penitents are particularly excepted from this privilege, and obliged to pray

^x Concil. Arelat. II. c. xxii. (Labbé, vol. iv. p. 1013.) *Pœnitentiam conjugatis non nisi ex consensu dandam.*

^y Concil. Arelat. c. xxi. (Labbé, vol. iv. p. 1013.) *Pœnitens quæcunque defuncto viro alii nubere præsumserit, vel suspecta vel interdicta familiaritate cum extraneo vixerit, cum eodem ab ecclesiæ liminibus arceatur. Hoc etiam de viro, in pœnitentia posito, placuit observari.*

kneeling at these times as well as any other. For this posture was most agreeable to their state, whose devotions consisted only in the expression of a deep humility and sorrow for sin, for which kneeling was thought the most decent posture. Therefore as others were obliged to pray kneeling on their stationary days, and days of fasting, because those were times of more solemn humiliation; so the penitents were obliged ^a to kneel every day, even on the days of remission; because every day was a day of humiliation to them; and their business in the Church was only to sue for mercy, and to prostrate themselves to receive the solemn imposition of hands and benediction.

SECT. X.—*Penitents obliged to show their Liberality to the Poor.*

And because mercy and liberality to the poor was a great argument and evidence of repentance, this was always in an eminent degree exacted of them. Cyprian ^a puts this among the other indications of repentance. “Can we think,” says he, “that that man laments with his whole heart, and deprecates the Lord with fasting, weeping, and mourning, who, from the very moment of his sinning, daily frequents the baths; who feeds himself with luxurious feasting; and fills his belly to an extraordinary pitch, only to belch forth his crudities the day after; who imparts not his meat and drink to the necessities of the poor? How does he bewail his own death, who walks about with a merry and cheerful countenance? who trims his beard and attires his face? Does he think to please men, who displeases God? Does that woman lament and mourn, who is

^a Concil. Carthag. IV. c. lxxxii. *Penitentes etiam diebus remissionis genua flectant.* (Labbé, vol. ii. p. 1206.)

^a Cyprian. de Lapsis (p. 96. cit. edit.) (Oxon. 1682. p. 135.) *Lamentari eum putamus ex toto corde, jejuniis, fletibus, planctibus Dominum deprecari; qui ex primo criminis die, lavacra quotidie celebrat, qui epulis adfluentibus pastus, et sagina largiore distentus, cruditates suas postridie ructat, nec cibos et potus suos cum pauperum necessitate communicat? Qui hilaris ac lætus incedit, quomodo mortem suam deflet? Quumque scriptum sit, ‘Non corrumpetis effigiem barbæ vestræ,’ barbam vellit, et faciem suam comit? Et placere nunc cuiquam studet, qui Deo displicet? An illa ingemiscit et plangit, cui vacat cultum pretiosæ vestis induere, nec indumentum Christi, quod perdidit, cogitare? accipere pretiosa. ornamenta et monilia elaborata, nec divini et cœlestis ornatus damna deflere?*

at leisure to put on her costly clothing, and never thinks of the garment of Christ, which she has lost?" In such a case, he thinks charity to the poor would be a more becoming ornament, than all their silks and jewels and gold: therefore he advises them to put on the ornament of Christ, that they might not appear naked before him.

SECT. XI.—*Penitents obliged to minister and serve the Church in burying the Dead.*

Finally, in some Churches, the penitents were obliged to take upon them the office and care of burying the dead; and this by way of discipline, and exercise of humility and charity, which were so becoming their station. In many churches, especially those of greater note, this business devolved upon a certain order of men, called 'Parabolani,' whose office was particularly to attend the sick, and take care¹ to bury the dead. But probably there was no such standing office in many Churches; and therefore this employment was put upon the penitents, as a proper exercise for men in their condition. It is certain it was so in the African Churches; for the fourth Council of Carthage^b gives a particular direction in the case, that the penitents should bear out the dead to the church, and take care of their burial. These were some of those wholesome and salutary exercises, with which the ancient Church disciplined her penitents, especially those of the third order, who were more emphatically called Penitents, as being in the state of Prostrators, which was the most noted order of penitents in the Church. But there is one eminent act of penance, belonging to this order, yet behind; that is, the exomologesis, or confession: which, because it has been turned into a new thing by the Church of Rome, and occasioned some great disputes, I have purposely reserved for a distinct handling, and shall make it the subject of a particular dissertation in the following chapter.

¹ Book iii. ch. ix. vol. i.

^b Concil. Carth. iv. c. lxxxi. (Labbé, vol. ii. p. 1206.) *Mortuos poenitentes ecclesiæ efferant et sepeliant.*

CHAPTER III.

A PARTICULAR ACCOUNT OF THE EXOMOLOGESIS, OR CONFESSION USED IN THE DISCIPLINE OF THE ANCIENT CHURCH; SHOWING IT TO BE A DIFFERENT THING FROM THE PRIVATE OR AURICULAR CONFESSION INTRODUCED BY THE CHURCH OF ROME.

SECT. I.—*The gross mistake of those who make the Exomologesis of the ancient Church to signify Auricular Confession.*

THERE is nothing more common among the polemical writers of the Romish Church, than wherever they meet with the word ‘exomologesis’ in any of the ancient writers, to interpret it private or auricular confession, such as is now practised in the communion of that Church, and imposed upon men as absolutely necessary to salvation. But they who with greater judgment and ingenuity among themselves have more narrowly considered the matter, make no scruple to confess, that the exomologesis of the ancients signifies a quite different thing, viz. the whole exercise of public penance, of which public confession was a noted part. The learned Albaspinæus very strenuously sets himself to refute this error in the writers of his own party. Cardinal Bellarmine, says he,^a and Baronius, and

^a Albaspin. *Observat. lib. ii. c. xxvi. p. 153. (p. 90. ad calc. Opt. edit. Paris. 1679.)* (Helmet. 1672. p. 232.) Multi, ut Cardinales Bellarminus et Baronius anno Domini 1556, Maldonatus in suis controversiis, Pamelius suis ad Tertullianum et Divum Cyprianum commentariis, pro certo adserunt, Patres, ut plurimum hac voce confessionem peccatorum arcanam et auricularem intellexisse; verum diu multumque pensatis omnibus, ubi ea habetur, locis, illorum opinioni non possum accedere. . . Mihi videntur semper Patres hanc vocem exomologesis adhibuisse, quum significare vellent ritus exteriores, utpote flendi, ingemiscendi, se ipsum incusandi, et id genus alia poenitentibus usitata. Atque ut perfectius istius vocabuli usus innotescat, neminem præterit illis prioribus sæculis poenitentes longa admodum et laboriosa defunctos esse poenitentia, perquam assiduis

Maldonat in his controversies, and Pamelius in his commentaries upon Tertullian and Cyprian, lay it down as a certain truth, that the fathers generally take the word 'exomologesis' for private and auricular confession: but having long and accurately considered all the places where it is mentioned, I cannot come in to their opinion. The fathers,' adds he, 'always use this word, when they would describe the external rites of penance, viz. weeping, and mourning, and self-accusation, and other the like things, which penitents usually practised in the course of public penance. For no one can be ignorant, that in those first ages penitents performed a long and laborious penance, wherein they mortified themselves with continual weeping, and stood before the gates of the church to give public testimony of their sorrow for the sin they had committed: moreover that they cast themselves on the ground at the bishop's feet, and fell down at the knees of the martyrs, and besought all the rest of the faithful, that they would become intercessors to God for them, being clothed in sackcloth, and covered with filthiness and horror: and that when they had gone thus far in their penance, the bishop was used to bring them from the doors into the church, and set them before the presbyters, the deacons, the widows, and all the people; where again they were used to prostrate themselves on the ground, detesting their sins, and commending themselves to the prayers of all, and solemnly protesting that they would never relapse or return to their former condition again. And upon this account,' says he, 'we often find this last rite called exomologesis by the fathers, because it contained many acts in it ex-

fletibus se ipsos conficerent, pro vestibulis ædium sacrarum starent ad testandum publice erroris sui dolorem: quin et humi jacentes episcoporum pedibus, martyrum genibus advolverentur, ceterorum quoque fidelium, identidem orantes unumquemque, ut sibi apud Deum deprecator adesset, operati sacco, horrore squaloreque prorsus obsiti. Peracta vero pœnitentia, episcopus eos ex aditu in medium templi deductos, coram presbyteris, diaconis, viduis, et populo sistebat, ubi rursus humi procumbebant, crimina sua detestabantur, ubertim flebant, omnium se precibus commendantes, nec umquam eodem se relapsuros sancte, dejerantes. Comperio itaque ultimum hunc ritum ob id sæpe exomologesin a patribus nuncupatum, quod in se plurimos actus haberet, dolorem admissæ culpæ præferentes, non secus ac omnis actio et ratio vitæ pœnitentium inter pœnitentiam agendam perinde exomologesis aliquando dicitur.

pressing sorrow for the crimes they had committed, in like manner as the whole action and tenor of a penitent's life, whilst he is doing penance, is sometimes called *exomologesis* by the fathers.' This he proves and confirms from many irrefragable testimonies out of Tertullian, Cyprian, and other ancient writers, which I shall not here relate, but only allege one passage of Tertullian, which comes home to the present purpose. "The *exomologesis*," says he,^b "is the discipline of a man's prostrating and humbling himself, enjoining him a conversation that moves God to mercy and compassion. It obliges a man to change his habit and his diet, to lie in sackcloth and ashes, to defile his body by a neglect of dress and ornament, to afflict his soul with sorrow, and to change his former sinful conversation by a quite contrary practice: to use meat and drink, not to please his appetite, but only for preservation of life; to quicken his prayers and devotions by frequent fastings; to groan and weep, and cry unto the Lord God both by day and night; to prostrate himself before the presbyters of the Church, to kneel before the friends of God, and beg of all the brethren that they would become intercessors for his pardon: all this the *exomologesis* requires to recommend a true repentance." Here is not a syllable of private or auricular confession, but all relates to the public confession before the Church; and that not so much in words, as in actions, expressing their repentance in public demonstrations of their sorrow, and the uniform tenor of a penitent behaviour; which was of far greater moment to signify and evidence their conversion, than the most pathetic words of any mere verbal or private confession.

^b Tertull. de Pœnit. c. ix. (Paris. 1664. p. 127. A 5.) *Exomologesis proster-nendi et humilificandi hominis disciplina est, conversationem injungens misericordiæ illicem, de ipso quoque habitu atque victu mandat, sacco et cineri incubare, corpus sordibus obscurare, animum mœroribus dejicere, illa quæ peccavit, tristi tractatione mutare: ceterum pastum et potum pura non esse, non ventris scilicet, sed animæ causa: plerumque vero jejuniis preces alere, ingemiscere, lacrimari, et mugire dies noctesque ad dominum Deum tuum, presbyteris advolvi et caris Dei adgeniculari, omnibus fratribus legationes deprecationis suæ injungere. Hæc omnia exomologesis, ut poenitentiam commendet, ut de periculi timore Dominum honoret, ut in peccatorem ipsa pronuntians pro Deo indignatione fungatur, et temporali afflictione æterna supplicia non dicam frustretur, sed expungat.*

SECT. II.—*No necessity of Auricular Confession ever urged by the ancient Church.*

And this is one argument to prove that the doctrine of the necessity of auricular confession was wholly unknown to the ancient Church. For when public discipline was in general use, and all men were disposed to it, there could be little occasion for private confession, the reason and ground of which was much better answered by the public. But besides this, there is most plain and direct evidence from the testimonies of the ancients, that no necessity was laid upon any man to make private confession of all or any of his secret sins to a priest, as a matter of indispensable obligation, either to qualify him for the reception of the Eucharist, or to give him a title to the communion of the Church and eternal life. I have already showed this, with a particular respect to the reception of the Eucharist, out of some very plain passages of Chrysostom, Gennadius, Laurentius Novariensis,¹ and other ancient writers ; to which I shall here add such other testimonies, as evidently show they required no private confession to be made to man, except in some very particular cases. St. Chrysostom,^c exhorting men to repentance, says, “ I bid thee not to bring thyself upon the stage, nor to accuse thyself unto others : but I advise thee to observe the prophet’s direction, reveal thy way unto the Lord, confess thy sins before God, confess them before the judge ; praying, if not with thy tongue, yet at least with thy memory ; and so look to obtain mercy. It is better to be tormented with the memory of thy sins now, than with the torment that shall be hereafter. If you remember them now, and continually offer them to God, and pray for them, you

¹ Lib. xv. cap. viii. § vi. vol. v. p. 313.

^c Chrysost. Homil. xxxi. in Hebr. p. 1956. (p. 593, edit. Francof. 1697.) Οὐ λέγω σοι, ἐκπόμευσον παντὸν, οὐδὲ παρὰ τοῖς ἄλλοις κατηγορήσον, ἀλλὰ πείθεσθαι [συμβουλευῶ] τῷ προφῆτῃ λέγοντι, Ἐκκαλύψον πρὸς Κύριον τὴν ὁδόν σου· ἐπὶ τοῦ Θεοῦ ταῦτα ὁμολόγησον, ἐπὶ τοῦ δικαστοῦ ὁμολόγηε τὰ ἁμαρτήματα, εὐχόμενος, εἰ καὶ μὴ τῇ γλώττῃ, ἀλλὰ τῇ μνήμῃ, καὶ οὕτως ἄξιον ἐλεηθῆναι . . . βέλτιον δάκνεισθαι αὐτῶν τῇ μνήμῃ νῦν, ἢ κατ’ ἐκείνον τὸν καιρὸν τῇ τιμωρίᾳ. νῦν ἂν ᾗς αὐτῶν μεμνημένος, καὶ συνεχῶς αὐτὰς προσφέρῃς τῷ Θεῷ, καὶ ὑπὲρ αὐτῶν δέξ, ταχίως ἐξαλείψεις αὐτάς. ἂν δὲ νῦν ἐπιλάβῃ, τότε αὐτῶν ἀναμνησθήσῃ καὶ ἄκων, ἐπὶ τῆς οἰκουμένης ἀπάσης, εἰς μέσον φερομένων αὐτῶν, καὶ ἐκπομπευομένων ἐπὶ πάντων, καὶ φίλων, καὶ ἐχθρῶν, καὶ ἀγγέλων. (line 7, from bottom of page.)

shall quickly blot them out : but if you forget them now, you will then remember them against your will, when they shall be brought forth before the whole world, and be publicly exposed upon the stage before all, friends, enemies, and angels.” In another place,^d “ It is not necessary that thou shouldst confess in the presence of witnesses ; let the enquiry after thy sins be made in thy own thoughts ; let this judgment be without any witness ; let God only see thee confessing.” Again,^e “ I beseech you make your confession continually to God. For I do not bring thee into the theatre of thy fellow-servants, neither do I constrain thee by any necessity to discover thy sins unto men : unfold thy conscience before God, and show him thy wounds, and ask the cure of him. Show them to him, who will not reproach thee, but only heal thee. For although thou confess not, he knows all. Confess, therefore, that thou mayest be a gainer. Confess, that thou mayest put off thy sins in this world, and go pure into the next, and avoid that intolerable publication that will otherwise be made hereafter.” “ Why art thou ashamed and blushest,” says he, in another place,^f “ to confess thy sins? Dost thou discover them to a man, that he should reproach thee? Dost thou confess them

^d Chrysost. Homil. de Poenitent. tom. v.

^e Chrysost. Homil. xxx. sive v. de incomprehensibili Dei natura, tom. i. p. 392. A I. (p. 348, edit. Francof.) Παρακαλῶ καὶ δέομαι καὶ ἀντιβολῶ ἱξομολογεῖσθαι τῷ Θεῷ συνεχώσ· οὐδὲ γὰρ εἰς θεατρὸν σε ἄγω τῶν συνδούλων τῶν σῶν, οὐδὲ ἐκκαλύψαι τοῖς ἀνθρώποις ἀναγκάζω τὰ ἁμαρτήματα, τὸ συνειδὸς ἀνάπτουζον ἐμπροσθεν τοῦ Θεοῦ, καὶ αὐτῷ δεῖξον τὰ τραύματα, καὶ παρ' αὐτοῦ τὰ φάρμακα αἰτησον· δεῖξον τῷ μὴ ὀνειδίζοντι, ἀλλὰ θεραπεύοντι· κὰν γὰρ σιγήσης, οἶδεν ἐκείνος ἅπαντα· εἰπὲ τοίνυν, ἵνα κερδάνης, εἰπὲ ἵνα ἐνταῦθα ἀποθέμενος ἀπέλθῃς ἐκεῖ καθαρὸς, καὶ τῆς ἀφορήτου δημοσιεύσεως ἐκείνης ἀπαλλαγῇς.

^f Chrysost. Hom. iv. de Lazaro, tom. v. p. 87. B 10 (p. 81, edit. Francof.) Τίνος ἔνεκεν αἰσχύνῃ καὶ ἐρυθριῶς, εἰπέ μοι, τὰ ἁμαρτήματα εἰπεῖν ; μὴ γὰρ ἀνθρώπῳ λέγεις, ἵνα ὀνειδίσῃ σε ; μὴ γὰρ τῷ συνδούλῳ ὁμολογεῖς, ἵνα ἐκπομπεύσῃ ; τῷ δεσπότῃ, τῷ κηδεμόνι, τῷ φιλανθρώπῳ, τῷ ἱατρῷ τὸ τραῦμα ἐπιδεικνύεις· μὴ γὰρ, κὰν σὸ μὴ εἶπῃς, ἐκείνος οὐκ οἶδεν, ὅσῃ καὶ πρὸ τοῦ παρὰ τῆς ἡπίστατο· τίνος οὖν ἔνεκεν οὐ λέγεις ; μὴ γὰρ ἐκ τῆς σῆς κατηγορίας φορτικώτερον γίνεται τὸ ἁμάρτημα ; ἡμρώτερον μὲν οὖν καὶ κουφότερον· καὶ διὰ τοῦτο βούλεται σε εἰπεῖν, οὐχ ἵνα κολάσῃ, ἀλλ' ἵνα συγχωρήσῃ· οὐχ ἵνα αὐτὸς μάθῃ τὴν ἁμαρτίαν· πῶς γὰρ, ὁ εἰδώς ; ἀλλ' ἵνα σὸ μάθῃς, πόσον σοι συγχωρεῖ χρέος· βούλεται δὲ σε μαθεῖν τῆς χάριτος τὸ μέγεθος, ἵνα εὐχαριστῶν διατελῇς, ἵνα ὀκνηρότερος πρὸς ἁμαρτίαν ᾖς, ἵνα προθυμότερος εἰς ἀρετὴν· ἂν μὴ εἶπῃς τοῦ χρέους τὸ μέγεθος, οὐκ ἐπιγινώσκεις τῆς χάριτος τὴν ὑπερβολήν. οὐκ ἀναγκάζω, φησὶν, εἰς μέσον ἵλθεῖν σε θεάτρον, καὶ μάρτυρας περιστῆσαι πολλούς· ἔμοι τὸ

to thy fellow-servant, that he should bring thee upon the open stage? Thou only showest thy wound to him, who is thy Lord, thy curator, thy physician, and thy friend. And he says to thee, I do not compel thee to go into the public theatre, and take many witnesses. Confess thy sin in private to me alone, that I may heal thy wound, and deliver thee from thy grief." There are almost twenty passages^g in the same author, very full and pregnant to the same purpose, which the learned reader may consult in their proper places, or view them at once collected together by Mr. Daillé in his excellent book^h of Auricular Confession; where he not only vindicates these passages of Chrysostom from the sophistical glosses and evasions of the Romanists, but also has unanswerably proved by no less than thirty arguments, and a cloud of other ancient witnesses, that there could be no such thing as private, auricular, sacramental confession enjoined, as of necessity to pardon of sin, in the primitive Church. Chrysostom is not the only person that maintains this assertion. St. Basil says the same thing before him: "I do not make confession with my lips,ⁱ to appear to the world; but inwardly in my heart, where no eye sees; I declare my groanings unto thee alone, who seest in secret; I roar within myself: for I need not many words to make confession: the groanings of my heart are sufficient for confession, and the lamentations which are sent up to thee, my God, from the bottom of my soul." In like manner, St. Hilary^k makes

ἀμάρτημα εἰπὲ μόνῃ κατ' ἰδίαν, ἵνα θεραπεύσω τὸ ἔλκος, καὶ ἀπαλλάξω τῆς δόξης.

^g Chrysost. Homil. lviii. Quod peccata non sint evulganda, tom. v. p. 754. Homil. lviii. Non esse ad gratiam concionandum, tom. v. p. 772. Homil. lxxviii. de Pœnitentia Achab, tom. v. p. 1003. Homil. xxi. ad Popul. Antioch. tom. i. p. 270. Homil. viii. de Pœnitent. tom. i. p. 700. Hom. ix. de Pœnitent. ibid. p. 708. Homil. lxii. de Paralytico, tom. v. p. 927. Homil. xx. in Genes. tom. ii. p. 222. Homil. ii. in psalm. l. tom. iii. p. 1004 et 1005. Homil. xx. in Matth. p. 200. Homil. xxviii. in 1 Cor. p. 569.

^h Dall. de Confess. Auricular. lib. iv. c. xxv.

ⁱ Basil. in Psalm. xxxvii. 8. (Paris. 1638. vol. i. p. 208. C 4.) Οὐ γὰρ ἵνα τοῖς πολλοῖς φανερὸς γίνωμαι, τοῖς χεῖλεσιν ἐξομολογοῦμαι· ἐνδον δὲ ἐν αὐτῇ τῇ καρδίᾳ τὸ ὄμμα μύων, σοὶ μόνῃ τῇ βλέποντι τὰ ἐν κρυπτῇ, τοὺς ἐν ἑμναυτῷ στεναγμοὺς ἐπιδεικνύω, ἐν ἑμναυτῷ ὠρυόμενος· οὐδὲ γὰρ μακρῶν μοι λόγων χρεία ἦν πρὸς τὴν ἐξομολόγησιν· ἀπῆρκουν γὰρ οἱ στεναγμοὶ τῆς καρδίας μου πρὸς ἐξομολόγησιν, καὶ οἱ ἀπὸ βάθους ψυχῆς πρὸς σὲ τὸν Θεὸν ἀναπεμπόμενοι ὁδυρμοί.

^k Hilar. in Psalm. li. p. 208. (p. 81, edit. Paris. 1693.) (Venet. 1749. vol. i. p.

confession necessary to be made to God only : for commenting on the fifty-second psalm, he tells us David teaches us that confession is necessary to be made to none but God, who hath made the olive fruitful with the hope of mercy for ever and ever. And St. Ambrose as plainly says,¹ that tears poured out before God are sufficient to obtain pardon of sin, without confession made to man. His words are, "Tears wash away sin, which men are ashamed to confess with their voice. Weeping provides at once both for pardon and bashfulness : tears speak our faults without horror ; tears confess our crimes without any offence to modesty or shamefacedness." So again,^m speaking of St. Peter's tears, he says, "I find not what Peter said, but I find that he wept : I read of his tears, but I read not of his satisfaction ;" meaning, that verbal confession was not simply necessary to obtain pardon. And in this sense St. Austin expounding those words of the Psalmist, 'I said I will pronounce or declare my own wickedness against myself unto the Lord, and so thou forgavest the iniquity of my heart,' says, "he had not yet pronounced ⁿ it, but only promised that he would pronounce it, and yet God forgave him. He had not yet pronounced it, but only in his heart ; his confession was not yet come to his mouth, yet God heard the voice of

73. B 2.) Confessionis causam addidit (David) dicens, 'Quia fecisti ;' auctorem scilicet universitatis hujus dominum esse confessus ; nulli alii docens confitentum, quam qui fecit olivam fructiferam spe misericordiae in saeculum saeculi.

¹ Ambros. lib. x. in Luc. xxii. p. 157. (p. 216. l. edit. Paris. 1642.) Lavant lacrimae delictum, quod voce pudor est confiteri. Et veniae fletus consulunt et verecundiae. Lacrimae sine horrore culpam loquuntur ; lacrimae crimen sine offensione verecundiae confitentur.

^m Ambros. ibid. Petrus doluit et flevit, qui erravit ut homo. Non invenio, quid dixerit ; invenio, quod flevit. Lacrimas ejus lego ; satisfactionem non lego.

ⁿ Augustin. Serm. ii. in Psalm. xxxi. (Bened. 1700. vol. iv. p. 134. E. 9.) Dixi, 'Pronuntiabo adversum me injustitiam meam Domino ; et tu dimisisti impietatem cordis mei.' Non jam pronuntiat, promittit se pronuntiaturum ; et ille jam dimittit. Attendite, fratres, magna res : dixit, 'Pronuntiabo.' Non dixit, Pronuntiavi, et tu dimisisti. Dixit, Pronuntiabo, et tu dimisisti ; quia eo ipso, quod dixit, Pronuntiabo ; ostendit, quia nondum ore pronuntiaverat, sed corde pronuntiaverat. Hoc ipsum dicere 'Pronuntiabo,' pronuntiare est : ideo 'et tu dimisisti impietatem cordis mei.' Confessio ergo mea ad os nondum venerat : 'dixeram enim, pronuntiabo adversum me ;' verumtamen Deus audivit vocem cordis mei. Vox mea in ore nondum erat, sed auris Dei jam in corde erat.

his heart: his voice was not yet in his mouth, but the ear of God was in his heart;" which implies, that God accepts and pardons the penitent and contrite heart, even before any formal declaration is made by vocal confession either to God or man. In another place,^o he speaks of confession as no ways necessary to be made to man: "what have I to do with men, that they should hear my confessions, as though they could heal all my diseases?" He also frequently tells¹ us, with all the rest of the ancient writers, that a great many of those which the Romanists now call mortal sins, were daily pardoned upon no other confession but the fervent and devout use of that of the Lord's Prayer, 'Forgive us our trespasses, as we forgive them that trespass against us.' Which evidently shows, that he did not believe auricular confession necessary for expiating all manner of mortal sins. Maximus Taurinensis^p delivers his opinion almost in the same words as St. Ambrose does: "Tears wash away sin, which the voice is ashamed to confess. Therefore tears provide at once both for men's modesty and salvation; they neither make men blush in their petitions, nor disappoint them of pardon in asking." He adds, "that tears are a sort of silent prayers: they ask not pardon in words, and yet deserve it, (that is, in his style, procure it,) they declare not the cause, and yet obtain mercy. Nay the prayers of tears are many times of more advantage than those of words; because words often prove deceitful in prayer, but tears never deceive. For words sometimes declare but half the business; but tears always express the whole affection." Prosper, who was St. Austin's scholar, follows his doctrine:

^o August. Confess. lib. x. c. iii. (Bened. 1700. vol. i. p. 127. C 7.) Quid mihi est cum hominibus, ut audiant confessiones meas, quasi ipsi sanaturi sint omnes languores meos?

¹ See this fully proved, Book xvi. c. iii. § xiv. vol. v. p. 555.

^p Maxim. Taurin. Homil. iii. de Pœnitent. Petri. Lavat lacrima delictum, quod voce pudor est confiteri. Lacrimæ ergo verecundiæ consulunt pariter et salutem; nec erubescunt in petendo, et impetrant in rogando. . . . Lacrimæ tacitæ quodammodo preces sunt; veniam non postulant et merentur; causam non dicunt, et misericordiam consequuntur; nisi quod utiliores lacrimarum preces sunt, quam sermonum; quia sermo in precando forte fallit, lacrima omnino non fallit. Sermo enim interdum non totum profert negotium; lacrima semper totum prodit adfectum.

for, speaking of private sins committed by the clergy, he says, "They shall more easily appease God,^q who being not convict by human judgment, do of their own accord acknowledge their offence; who either do discover it by their own confessions, or else others not knowing what they are in secret, do voluntarily inflict the sentence of excommunication upon themselves; and being separated (not in mind, but in office) from the altar, to which they did minister, do lament their life as dead; assuring themselves, that God being reconciled unto them by the fruits of effectual repentance, they shall not only receive what they have lost, but also, being made citizens of that city which is above, they shall come to everlasting joys." Cassian also assures us, that this was the doctrine of the Egyptian Fathers. For he says, Pinuphius, the Egyptian abbot, gave his advice to the monks that were under him: "Who is it that cannot humbly say, I made my sin known unto thee, and my iniquity have I not hid? that by this confession he may confidently adjoin that which follows: And so thou forgavest the impiety of my heart. But if shamefacedness^r so draw thee back, that thou blushest to reveal them before men; cease not by continual supplication to confess them unto him from whom they cannot be hid, and to say, I know my iniquity, and my sin is against me alway: to thee only have I sinned, and done evil before thee, whose custom is both to cure without publishing our shame, and to

^q Prosper. de Vita Contemplat. lib. ii. c. vii. (Bassani. 1782. vol. ii. p. 20.) Deum sibi facilius placabunt illi, qui non humano convicti iudicio, sed ultro crimen agnoscunt: qui aut propriis illud confessionibus produunt, aut nescientibus aliis, quales occulti sunt, ipsi in se voluntariæ excommunicationis sententiam ferunt, et ab altari cui ministrabant, non animo, sed officio separati, vitam suam tamquam mortuam plangunt, certi quod reconciliato sibi efficacis poenitentiae fructibus Deo, non solum amissa recipiant, sed etiam cives supernæ civitatis effecti, ad gaudia sempiterna perveniant.

^r Cassian. Collat. xx. c. viii. (Lips. 1733. p. 549.) Quis est, qui non possit simpliciter dicere, 'Peccatum meum cognitum tibi feci, et injustitiam meam non operui?' ut per hanc confessionem etiam illud confidenter subungere mereatur, 'Et tu remisisti impietatem cordis mei.' Quod si verecundia retrahente revelare ea coram hominibus erubescis, illi, quem latere non possunt, confiteri ea jugi supplicatione non desinas ac dicere, 'Iniquitatem meam cognosco, et peccatum meum contra me est semper; tibi soli peccavi, et malum coram te feci;' qui et absque illius verecundiæ publicatione curare, et sine improprio peccata donare consuevit.

pardon sins without accusing or upbraiding." These are plain testimonies evidently showing that the ancients did not believe the necessity of auricular confession, or urge it as a thing absolutely necessary to absolution and salvation.

SECT. III.—*This proved farther from the practice of the ancients in denying all manner of absolution to some relapsing sinners, without excluding them from the Mercy and Pardon of God upon confession to him alone.*

But besides this, the practice of the ancients in one particular case does most irrefragably show, that they did not believe the necessity of auricular confession. For they allowed no second public penance to many relapsing sinners, nor ever gave them any manner of sacerdotal absolution to their lives' end: which shall be evidently demonstrated in the next chapter. Now the plain consequence of this is, that no penitential confession, either public or private, was taken from such, as made to man, in order to obtain sacerdotal absolution: yet still they exhorted them to repent in private, and make private confession of their sins to God, in hopes of obtaining mercy and pardon from him at the great day of retribution. It is confessed on all hands, that such relapsers never had the privilege to make their public confession in the Church, in order to obtain public absolution: and it is as certain they were not admitted to compound by any private sacerdotal confession, to obtain private sacerdotal absolution. For though cardinal Perron had a strong fancy to solve the difficulty of this argument, by feigning a sort of private confession for them, when they were denied the public, yet Petavius^a himself refutes this pretence as a mere

^a Petav. not. in Epiphan. (Colon. 1682. vol. ii. p. 237.) Perdifficilis existit quæstio, Quid illis tandem hominibus factum sit, qui post priorem poenitentiam in eadem scelera rursus incurrerent; verumne sit, ab ecclesia rejectos illos penitus, nec ad privatam saltem aliquam receptum habuisse, cujus beneficio in integrum restituti ad divinorum mysteriorum communionem redirent. Qui antiquioris ecclesiæ formam ac consuetudinem ex hodiernis institutis et moribus æstimare voluerit, facile mitiorem in partem inclinabit; nec ab omni ecclesiæ, sacramentorumque consortio repudiatos illos persuadere sibi poterit. Quam in sententiam copiose quidam nuper ita disseruit. Triplicem ait apud antiquos fuisse poenitentiam: publicam unam ob publica peccata: alteram privatam ac secretam propter occulta: tertiam ob eadem occulta crimina publice susceptam. Hanc vero postremam non eum tantum habuisse fructum, ut peccatorum culpam ac

dream without any foundation in ancient history, and gives a solid reason to the contrary. For, as he argues, if private confession had been allowed to such relapsers, their condition had been happier, and their penance easier, than those who fell but once: which is a thing that will hardly enter into any man's imagination, that considers things with any manner of judgment and reason. Supposing then the truth of this fact, that the ancients allowed such relapsers neither the benefit of public nor private absolution upon any confession whatsoever; it evidently follows that they did not believe any absolute necessity of auricular confession, since they encouraged such

sempiterni supplicii noxam abstergeret; sed ut temporarias insuper pœnas dilueret, ac peccatores in integrum cumulatissime restitueret. Proinde non ejus copiam promiscue esse factam, neque quoties quisque peteret, facile permissam; sed in omni vita semel duntaxat. Hæc ille: Ex quibus et ex iis, quæ consequenter disputat, velle istud videtur; istiusmodi criminum reos post priorem pœnitentiam ad privatam confugisse, ejusque beneficio nihilominus communionem adsecutos esse. Sed ad veterum patrum testimonia, ac priscae illius ecclesiæ normam, et communem adeo sensum animi adjicienti mihi, parum commode pleraque explicata videntur. Etenim si graviorum delictorum conscii citra publicam illam, quam antea suscepissent, pœnitentiam emergere, et ad communionem pacemque reverti alterius ac privatæ beneficio potuerint; nonne melior illorum, quam ceterorum, conditio fuit, quibus sine publica pœnitentia reditus in ecclesiam non patuit? Atqui nemo tam vecors erit, qui humanius cum illis actum putet, qui in eadem sæpius incurrissent, et quidem horrenda flagitia, quam cum eis, qui semel ea commisissent: quod ex illa opinione consequitur. Cujusmodi vero istud est; velut gratiæ, ac beneficii loco publicam illam pœnitentiam spisse ac difficiliter indultam? Nam si privata et occulta defungi possent, et in eodem ac ceteri loco esse; quis non tanto molestiarum ac temporis compendio mallet uti, cupidissimeque se, publica illa contenta, ad commodiorem alteram, breviorumque transferret? Volo enim illud mihi respondeant: Qui atrocioris culpæ conscius tum primum ad pœnitentiam accederet, utrum absque publica per privatam restitui potuerit, an necessario usurpanda illa fuerit. Si prius dixerint; si, inquam, necessariam illis publicam pœnitentiam negaverint, antiquitatis totius memoria teste refelluntur. Siquidem vetera omnia concilia, omnesque canonum conditores ita publicam lapsis pœnitentiam præscribunt, ac tempus rationemque definiunt; ita porro Tertullianus, Cyprianus, Pacianus, antiqui ad unum omnes eosdem illos hortando, comminando, objurgando vel invitos urgent, et impellunt; ut minime hoc illis integrum fuisse significant. Restat igitur, nullo ut alio, ac ne privatæ quidem pœnitentiæ subsidio recipi in communionem ecclesiæ potuisse concedant. Quod quum dederint; tum de illis quid sentiant requiram, qui secundo in graviora peccata lapsi publica uti pœnitentia non poterant; ecquid eos censeant per privatam pœnitentiam reconciliari potuisse? Nam si istud asserant, necesse erit una fateantur, feliciorem multo conditionem eorum exstitisse, qui sæpius, quam eorum qui semel in vita deliquissent. Quod quibus tandem persuadere poterunt?

sinner notwithstanding to hope for mercy and pardon, upon private repentance and confession made to God only. For the proof of which, one passage of St. Austin will be sufficient, where he speaks the general practice of the Church, and the sense of all his brethren. "The iniquity^t of men," says he, "sometimes proceeds so far, that after they have done public penance, after they have been reconciled to the altar, they commit the same or greater sins; and yet God makes his sun to rise even upon such, and bestows upon them no less than before the greatest gifts of life and salvation. And though there be no place allowed to such in the Church, to perform that humble sort of penance again, yet God does not forget his patience toward them. But if any of these should say to us, Either grant me the same place of repentance again, or else suffer me to go on desperately, to live as I list, to do whatever my riches

^t Augustin Epist. liv. ad Macedon. p. 92. (tom. ii. Opp. p. 241, edit. Basil. 1569.) (Bened. 1700. vol. ii. p. 399. B 5.) In tantum hominum aliquando iniquitas progreditur, ut etiam post actam poenitentiam, post altaris reconciliationem, vel similia vel graviora committant, et tamen Deus facit super tales oriri solem suum: nec minus tribuit quam ante tribuebat largissima munera vite ac salutis. Et quamvis eis in ecclesia locus humillimæ poenitentiae non concedatur; Deus tamen super eos suæ patientiæ non obliviscitur. Ex quorum numero si quis nobis dicat, 'Aut date mihi eundem iterum poenitendi locum, aut desperatum me permittite, ut faciam quidquid libuerit, quantum meis opibus adjuvor, et humanis legibus non prohibeor, in scortis omnique luxuria, damnabili quidem apud Dominum, sed apud homines plerosque etiam laudabili: aut si me ab hac nequitia revocatis, dicite, utrum mihi aliquid prosit ad vitam futuram: si in ista vita illecebrosissimæ voluptatis blandimenta contemsero, si libidinum incitamenta frenavero, si ad castigandum corpus meum multa mihi etiam licita et concessa subtraxero, si me poenitendo vehementius quam prius excruciavero, si miserabilius ingemuero, si flevero uberius, si vixero melius, si pauperes sustentavero largius, si caritate (quæ operit multitudinem peccatorum) flagravero ardentius; quis nostrum ita desipit, ut huic homini dicat, Nihil tibi ista proderunt in posterum; vade saltem vite hujus suavitate perfruere? Avertat Deus tam immanem sacrilegamque dementia. Quamvis ergo caute salubriterque provisum sit, ut locus illius humillimæ poenitentiae semel in ecclesia concedatur, ne medicina vilis minus utilis esset egrotis, quæ tanto magis salubris est, quanto minus contemptibilis fuerit; quis tamen audeat dicere Deo, 'Quare huic homini, qui post primam poenitentiam rursus se laqueis iniquitatis obstringit, adhuc iterum parcis?' Quis audeat dicere erga istos non agi, quod apostolus ait, 'Ignoras, quia patientia Dei ad poenitentiam te adducit?' Aut istis exceptis esse definitum quod scriptum est: 'Beati omnes, qui confidunt in eum?' Aut ad istos non pertinere quod dicitur: 'Viriliter agite, et confortetur cor vestrum, omnes qui speratis in Dominum?'

will enable me to do, and no human laws will forbid me, to live in whoredom and all manner of luxury, which though damnable before the Lord, is even laudable in the eyes of many men; or if ye recal me from this wickedness, tell me whether it will profit me any thing towards eternal life, if in this life I condemn the blandishments of enticing pleasure, if I bridle the excitements of lust, if for the chastisement of my body I deny myself many things that are lawful and allowed, if I torment myself more vehemently in repentance than I did before, if I groan more miserably, and weep more abundantly, if I live better, if I more liberally sustain the poor, if I more ardently flame in charity, which covers a multitude of sins; which of us is so foolish as to say to this man, All this will profit thee nothing hereafter, go and enjoy the pleasures of this life? God forbid we should be guilty of so monstrous and sacrilegious madness. Therefore though it be a cautious and salutary rule and provision in the ecclesiastical law, that this place of the humblest penance shall not be granted above once in the Church, lest by making the medicine too vile and cheap, it should become less useful to those that are sick, being so much the more beneficial, by how much it is less contemptible; yet who dares to say to God, Why dost thou spare this man, who after his first penance binds himself again in the bonds of iniquity? Who dares say, that God deals not with them according to that saying of the Apostle, "Knowest thou not that the long-suffering of God leadeth thee to repentance?" Or that they are excepted from that general declaration, "Blessed are all they that put their trust in him?" Or that it belongs not to them, when it is said, "Be strong, and establish your heart, all ye that put your trust in the Lord?" If St. Austin here rightly represents the practice of the Church, in this one case, there was no use made either of public or private confession to men, to obtain the remission of the greatest sins; but men were directed to another method, to seek pardon from God by the exercise of a private repentance. Consequently there could be no absolute necessity of auricular confession, which in this case had been most likely to have been prescribed in want of the other, had any such necessity been taught or laid upon it, as is now by the imperious and dictating authority of the Church of Rome.

SECT. IV.—*And from several other considerations of the like nature.*

The learned Mr. Daillé has urged many other considerations of great weight, which I cannot here insist upon, but only mention the heads of them for the sake of the unlearned readers, or such of the learned as have not that excellent and elaborate work of his by them. 1. He argues from the practice^u of all other Churches in the world beside the Roman: the doctrine of the necessity of auricular confession is taught by no other denomination of Christians, not the Æthiopians, nor the Indians of St. Thomas, nor the Babylonians or Chaldeans, nor the Armenians, nor the Jacobites, nor the Greeks in the manner of the Romans. 2. He shows, that whereas the priests in the Roman Church are nicely instructed in the business of auricular confession, and teach and minister it daily to the people, as the noblest act of their office; there is nothing of all this to be found in the genuine writings of the ancient Christians. 3. Whereas auricular confession is continually mentioned by the Roman writers among the religious acts of all sorts of men, clergy, monks, laity, princes, private men, noblemen, plebeians, men, women, &c. there is nothing of this among the ancient Christians. 4. In the ancient Church, Christians were bound by no law, as now they are in the Roman, to confess their sins to a priest before they came to the Lord's table to receive the eucharist. Which he demonstrates by eight reasons, and the testimony of Chrysostom, Pelagius, Austin, Dorotheus, the Council of Chalon and Hincmar. 5. In the Roman Church, it is usual for every one to make his auricular confession at the point of death; of which there are no footsteps among the ancients. 6. The Romish writers are very full of auricular confession in describing any of the sicknesses, or calamities, or wars, or shipwrecks, or journeys, or other hazardous undertakings of their people: but there was no such practice among the ancients. 7. The ancients in describing the persecutions of the Church, or the conflicts and trials and last agonies of their confessors and martyrs, never mention auricular confession, which yet abounds every where in the Romish writers, when they make any such re-

^u Dall. de Confess. Auricular. lib. iv. c. i. seqq.

lations of the lives or deaths of their martyrs. 8. The ancients had no solemn times appointed for auricular confession, as Easter, Christmas, Lent, the greater festivals, and the Friday and Saturday Fasts, which are now every where spoken of in the Romish writers, as solemn times of confession. 9. The ancients say nothing of miracles done in or by confession, which the Romanists continually boast of. 10. The ancient Pagans never objected auricular confession to the primitive Christians, as the modern Pagans do to those of the Roman communion. 11. The ancient Church knew nothing of heretics opposing auricular confession, because there was no such thing enjoined; but since it was appointed by the Council of Lateran an. 1215, many have been condemned as heretics for opposing it. 12. The primitive bishops often declare, that they were ignorant of the sins of their people; particularly this is said by Chrysostom, Austin, Innocent, and Leo, bishops of Rome. Which is an argument, that they were not revealed to them by sacramental confession. 13. The first man that instituted any private confession, was St. Anthony, who appointed his monks to write down their thoughts, and communicate them one to another: but this was nothing to sacerdotal confession; for these monks were only laymen. 14. The ancient writers have none of those intricate questions and disputations about auricular confession, which so much stuff the books of the modern casuists in the Church of Rome. 15. The Fathers never interpret those passages of Scripture, which the Romanists produce for auricular confession, in their sense, but most of them to a contrary meaning. 16. The Fathers in those books which they wrote professedly of repentance, never urge auricular confession as a necessary part of repentance. 17. The Fathers acknowledge only three sorts of repentance; the ante-baptismal, for all manner of sins; the quotidian, or daily repentance, for lesser sins of daily incursion; and the public penance of lapsers, falling into more heinous sins: but auricular confession appertains to none of these. 18. Gregory Nyssen^v says expressly, there were some sins, such as covetousness, which

^v Gregor. Nyssen. Epist. ad Letoium. (Paris. 1615. vol. i. p. 953. C 8.) Dal-læus (l. c. cap. xxiii.) hæc habet: Gregorius Nyssenus quum observasset peccata avaritiæ, quæ ab apostolo 'et idololatria et omnium malorum radix' vo-

the Fathers before him endeavoured to cure, not by any canonical punishments, but only by the public exhortations of the word and doctrine: which will not consist with the doctrine of auricular confession. 19. Nectarius wholly abrogated the office of the penitentiary priest. Which argues, that there was no necessity of auricular confession: but of this office we must speak a little more particularly hereafter. 20. His next argument is drawn from those passages of Chrysostom, Hilary, Basil, Ambrose, Maximus Taurinensis, and St. Austin, (which have been already mentioned) asserting, that remission of sins may be obtained of God by contrition only, without any oral confession. 21. The Fathers allow salvation to be attainable even by those relapsers, who fell again into sin after their first public penance, though they had no liberty either to make confession or receive absolution. Which argument has been particularly explained already. His 22, 23, and 24 arguments are drawn from the testimonies of Cassian, and Julianus Pomerius or Prosper, and Laurentius Novariensis, which have been related before. 25. To these he adds two considerable testimonies of Bede. 26. And the concessions of Erasmus, Beatus Rhenanus, and Rigaltius, who freely own, that the Romish auricular confession was not in use in the primitive Church. 27. He shows that there was a change made of the ancient discipline in the ninth age, when private penance enjoined by the priest began to be pretty frequent and common. 28. And yet this differed vastly, in many particulars, from the confession established afterwards in the Council of Lateran. For still it was believed, that confession made to God only was sufficient to salvation. 29. In the following ages also, Goffridus Vindociensis, Peter Lombard,

catur, παρωφθῆναι ἀνεπίσκεπτά τε καὶ ἀπημελητά, 'inconsiderata et absque cura prætermissa esse a patribus,' hoc est (ut optime interpretatur Balsamo) relicta esse ἀνεπιτήμητά τε καὶ ἀκόλαστα 'impunita et incastigata,' nullis adeo poenitentiae censuris poenisque subjecta, postquam hoc, inquam, observavit, continenter addit, ἀλλὰ περὶ μὲν τούτων διὰ τὸ παρεῖσθαι τοῖς πατράσιν ἡμῶν, ἀρκεῖν ἡγοῦμεθα τῇ δημοσίῳ τῆς διδασκαλίας λόγῳ, ὅπως ἂν οἶόν τε ἢ θεραπεύειν, ὥσπερ τινὰ πληθωρικά, τὰς πλεονεκτικὰς ἀβήρωστίας διὰ τοῦ λόγου καθ-αίροντες. Locus palmarius; qui totum confessionis Innocentianæ mysterium illo sæculo (id est, quarto pæne præcipiti) ecclesiæ Christianæ adhuc incognitum fuisse, plane liquidoque demonstrat.

and Gratian * say there were many, who still held that confession to God alone was sufficient without confessing to the priest. And Gratian¹ particularly, having cited the authorities on both sides of the question, leaves it to the judgment of the reader to take which opinion he pleases ; because each opinion had wise and religious men to authorize and defend it. Which argues, that, in Gratian's time, the question about the necessity of auricular confession was not so determined as it was afterwards in the Council of Lateran, and the Council of Trent. This is also acknowledged by Aquinas, Bonaventure, and Antonine, who say that, in the time of Gratian and Lombard, the question about the necessity of such confession was only problematical, and what might safely be disputed both ways, and that it was no heresy to deny it : but after the determination of the Church made under Innocent III. in the Lateran Council, it was to be reputed heresy for any man to assert, that it was sufficient to confess a man's sins to God, without making confession to a priest also. 30. Thus the doctrine of auricular confession was established in the thirteenth century, and not before : and even after that there wanted not witnesses, such as Wickliffe, and Huss, and Semeca, and Michael of Bononia, and Petrus Oxoniensis, to bear testimony against its novelty, to the time of the Reformation. This is the short

* Goffrid. lib. v. epist. xvi. apud Dall. p. 553. qui ita eum adducit : Ex Goffrido Vindociens. supra (p. 534.) recitavimus, fuisse eo tempore (id est, undecimo desinente, vel ineunte duodecimo sæculo) Guilielmum quemdam, virum doctum, qui diceret, 'Solummodo quatuor peccata confessione indigere, errorem videlicet gentilem, schisma fraternum, hæreticam pravitatem, et judaicam perfidiam ;' quod iis universalis ecclesiæ castitas commaculatur ; 'cetera autem peccata a Domino sine confessione sanari.'—Lombard. *Distinct. lib. iv. § xvii.* Apud Dall. p. 554. Lombardus proposita hac quæstione, 'Utrum sufficiat peccata confiteri soli Deo, an oporteat confiteri sacerdoti,' hæc statim subjicit, 'Quibusdam visum est, sufficere, si soli Deo fiat confessio sine judicio sacerdotali et confessione ecclesiæ.' Mox istorum fundamenta ex scripturis et patribus exponit ; tum, 'His (inquit) auctoritatibus innituntur, qui sufficere contendunt Deo confiteri peccata sine sacerdote. Dicunt enim, quod si quis timens detegere culpam suam apud homines, ne inde opprobrio habeatur, vel alii suo exemplo ad peccandum accingantur, et ideo tacet homini et revelat Deo, consequitur veniam,' etc.

¹ Gratian de Poenit. *Distinct. ii. c. lxxxix.* Cui harum potius adhærendum sit, lectoris judicio reservatur. Utraque enim fautores habet sapientes et religiosos viros.

account of those thirty arguments, which the learned Mr. Daillé uses to show the novelty of the Romish doctrine concerning auricular confession; which the curious reader who desires to see them more fully deduced and confirmed, may consult in our author's elaborate work for his further satisfaction.

SECT. V.—*Yet private Confession allowed and encouraged in some cases. As, 1, For lesser sins, men were advised to confess mutually to one another, to have their prayers and assistance.*

But in all that is said by this or any other Protestant writer, there is no intent to deny that private confession was allowed and encouraged by the ancients, in some cases and upon some special occasions. For first they advised all men, in case of lesser sins, to make confession mutually to one another, that they might have each other's prayers and assistance. This is the advice of St. James, v. 16, "Confess your faults one to another, and pray one for another, that ye may be healed. The effectual fervent prayer of a righteous man availeth much." Which though it be a place commonly produced by the Romanists for their auricular confession to a priest, yet it was anciently thought no more than a direction to Christians in general, to confess their sins mutually to one another. Thus, it is certain, St. Austin understood it: for writing upon those words of our Saviour in St. John, "If I your Lord and master have washed your feet, ye ought also to wash one another's feet;" he thus expounds them and the words of St. James together: "Can we say,^y that one brother may cleanse another

^y Augustin. tract. lviii. in Joan. tom. ix. p. 164. (p. 401, edit. Basil. 1569.) (Bened. 1700. vol. iv. p. 481. C8.) Num quid dicere possumus, quod etiam frater fratrem a delicti poterit contagione mundare? Immo vero id etiam nos esse admonitos in hujus Dominici operis altitudine noverimus, ut confessi invicem delicta nostra, oremus pro nobis, sicut et Christus interpellat pro nobis. Audiamus apostolum Jacobum, hoc ipsum evidentissime præcipientem et dicentem, 'Confitemini invicem delicta vestra, et orate pro vobis: quia et ad hoc Dominus nobis dedit exemplum. Si enim ille qui ullum peccatum [nec habet,] nec habuit, nec habebit, orat pro peccatis nostris, quanto magis nos invicem pro peccatis nostris orare debemus! Et si dimittit nobis ille, cui non habemus quod dimittamus, quanto magis dimittere nobis debemus invicem, qui sine peccato hic vivere non valemus. . . . Itaque nobis delicta donemus, et pro nostris delictis invicem oremus, atque ita quodam modo pedes nostros lavemus.

from the contagion of sin? Yes; we are taught to do it by the mystical meaning of this work of our Lord, that we should confess our sins one to another, and pray one for another, as Christ intercedes for us. Let us hear St. James the apostle evidently commanding this very thing, and saying, 'Confess your faults one to another,' and pray one for another, because in this our Lord hath set us an example. For if he, who neither has, nor ever had, nor ever will have any sin, prays for our sins; how much rather ought we to pray for the sins of one another? And if he forgive us, who has nothing to be forgiven by us; how much more ought we to forgive one another, who cannot live here without sin? Let us therefore forgive one another, and pray for each other's sins, that so we may, in some measure, wash one another's feet." In like manner Eradius, or St. Austin himself, in another ^z place says, "We are admonished throughout the whole Scripture to confess our sins continually and humbly, not only to God, but to holy men and those that fear God. For so the Holy Ghost teaches us by James the apostle, saying, 'Confess your faults one to another, and pray one for another, that ye may be healed.'" Hincmar, a learned French bishop of the ninth age, gives the same interpretation: "Our light and daily sins," says he, "according to the exhortation of St. James,^a are daily to be confessed to those that are our equals: and such sins, we may believe, will be cleansed by their daily prayers, and our own acts of piety, if with a charitable mind we truly say in the Lord's prayer, 'Forgive us our trespasses, as we forgive them that trespass against us.'" And Maldonat^b says, this was the

^z Augustin. Homil. xii. ex l. tom. x. p. 161. (p. 438, cit. edit.) (Bened. 1700. vol. v. append. p. 293. D 4.) In omnibus Scripturis divinis, utiliter ac salubriter admonemur, ut peccata nostra debeamus jugiter et humiliter non solum Deo sed etiam sanctis et Deum timentibus confiteri. Sic enim per Jacobum apostolum nos admonet Spiritus Sanctus, dicens, 'Confitemini alterutrum peccata vestra, et orate pro invicem, ut salvemini.'

^a Hincmar. Epist. ad Hildeboldum, tom. ii. n. xl. p. 688. Quotidiana levique peccata, secundum Jacobi apostoli hortamentum, alterutrum cosequalibus confitenda sunt. Quæ quotidiana eorum oratione cum quotidianis piis actibus credenda sunt mundari, si cum benignitate mentis in oratione Dominica veraciter dicitur, 'Dimitte nobis debita nostra, sicut et nos remittimus debitoribus nostris.'

^b Maldonat. Controvers. tom. ii. de Confessione, cap. ii. p. 36. Illud quod ait

sense of all the ancients; alleging not only St. Austin, but Hesychius, and Gregory the Great, and Bede, and the author of the interlineary gloss. To which others^c add Scotus, and Biel, and Dionysius Carthusianus, and Cajetan, and Gagnæus, and Antonius Godellus, a late bishop in the French Church; however Bellarmine came to fix upon this passage of St. James, as a plain proof of auricular confession to a priest, which, in the case mentioned, according to the opinion of so many ancients and moderns, directs to no other confession, but what may be made to any pious Christian.

SECT. VI.—2. *In case of injuries done to private persons, men were obliged to confess, and ask pardon of the injured party.*

2. In case of private injuries done to any private person, there was no question ever made, but that the offending party might make a private confession of his fault to the offended party, and give him private satisfaction. For so Christ had appointed, Matt. v. 23. "If thou bring thy gift to the altar, and there rememberest that thy brother hath ought against thee; leave there thy gift before the altar, and go thy way, first be reconciled to thy brother, and then come and offer thy gift." Upon which St. Austin^d says, "A man may with

Jacobus (cap. x.) 'Confitemini alterutrum peccata vestra,' non videtur de confessione sacramentali intelligendum esse, nec esse necessarium. Primum, quia, quum dicit 'alterutrum,' indicat, se loqui de ea confessione, quæ sit inter omnes Christianos, etiam laicos, ad petendum alterius consilium et orationes. Deinde quod addit, idem significat, 'Orate pro invicem.' Nam de iisdem loquitur, quum ait, 'Confitemini alterutrum,' et quum ait, 'Orate pro invicem.' Quum autem dicit, 'Orate pro invicem,' non loquitur de solis sacerdotibus, sed de omnibus; ergo et quum dicit, 'Confitemini alterutrum.' Præterea græce est, ὁπως ἑαθήτε, id est, ut curemini, et a morbo liberemini. Ex quo verbo intelligitur, non esse sermonem de ea confessione, quæ fit sacerdotibus ad obtinendam remissionem peccatorum, sed ea, quæ fit omnibus Christianis ad obtinendas preces. Idem colligitur ex eo, quod sequitur, 'multum valet oratio justī adsiduā,' ubi non tantum loquitur de justo sacerdote, sed de quolibet justo, ut declarat exemplum illud; 'Elias homo erat similis nobis, passibilis; oratione oravit, ut non plueret,' etc. Ad hunc modum omnes fere veteres intellexerunt eum locum: Hesychius, lib. i. in Levitic. cap. iv.; D. Augustinus, xii. homil. ex l.; D. Gregorius, lib. xxii. moral. cap. xiv.; Beda commentario in eundem locum et in 1 Joan. cap. v.; et auctor glossæ interlinearis.

^c Vide Dall. de Confess. lib. i. c. xii.

^d Augustin. de Sermone Domini in Monte, lib. i. c. x. (tom. iv. Opp. p. 1112,

an unfeigned heart endeavour to pacify and appease him, by asking him pardon, if he does this before God. Nay, it is his only remedy in this case, to ask pardon ; which whoever does not, he is puffed up with the spirit of vain-glory."

SECT. VII.—3. *When they were under any troubles of conscience, they were advised to make private Confession to a Minister, to have his counsel and direction.*

3. When men were under any perplexities of mind, or troubles of conscience, from the pressure and load of sin ; that was another case in which they were always directed to have recourse to some wise and prudent pastor, to take his counsel and advice, and his assistance, and his prayers, as a sort of mediator and intercessor under Christ for them. The Romish writers are apt to allege many passages out of the ancients, which, upon examination and strict enquiry, amount to no more than this. Thus Clemens Romanus, or the author under his name, bids every one, into whose heart either envy or infidelity, or any such crime, has slyly crept, not be ashamed (if he has any care of his soul) to confess his sin to the bishop or minister^e presiding over him, that, by the word of God and his saving counsel, he may be healed. And so Maldonat owns,^f this has no relation to sacramental confession. The same

edit. Basil. 1569.) (Bened. 1700. vol. iii. 2 part. p. 126. F 4.) *Poteris eum (fratrem) non simulate animo lenire, atque in gratiam revocare veniam postulando, si hoc prius coram Deo feceris. . . . Hoc est unum remedium, supplici animo veniam deprecetur : quod quisquis non fecerit, inanis jactantiæ spiritu inflatur.* N.B. The Benedictine edition reads the latter clause thus : *Forte si in aliquo horum [i. e. of being angry with his brother without a cause, or terming him Raca, or Fool] lapsus fuerit, quod est unum remedium, supplici animo veniam deprecetur, nisi quisquis inanis jactantiæ spiritu non inflatur.*

^e Clem. Epist. i. ad Jacob. *Quod si in alicujus cor, vel livor, vel infidelitas, vel aliud malum latenter irrepsit, non erubescat, qui animæ suæ curam gerit, hæc confiteri ei qui præest, ut ab ipso per verbum Dei et consilium salubre curetur.*

^f Maldonat. tom. ii. de Confess. cap. ii. p. 40. *Unus (ex variis confessionis finibus) erat, ut peccatores peterent consilium a confessario. Hoc est, quod scribit Clemens epist. i. D. Petrum docuisse, ut peccatores exponerent sacerdoti suas cogitationes malas, ut ab illo acciperent remedium ; et quod Dionysius Areopagita indicat in epistola ad Demophilum, reprehendens Demophilum, quia calce abjecerat peccatorem accedentem ad presbyterum, ut ab illo peteret remedium peccatorum.*

advice is given by Origen, Gregory Nyssen,^g and St. Basil,^h upon the like occasion, to confess their sins to the priest, who by his compassion and skilfulness was able to help their infirmities, and at once take care both of their credit and cure.

SECT. VIII.—4. *To take his advice also, whether it was proper to do public Penance for private Offences.*

4. Origen gives another reason for confessing private sins to the priest, because he was best able to judge whether it were proper for such sins to admit men to do public penance in the Church, which in those days was no unusual practice. "Consider," says he,ⁱ "what the holy Scripture teaches us, that we ought not to conceal our sin within our own breast. For perhaps as they who are inwardly oppressed with the humour or phlegm of indigested meat, which lies heavy upon the stomach, if they vomit it up, are relieved; so they who have sinned, if they hide and conceal their sin within themselves, are inwardly oppressed, and almost suffocated with the phlegm and humour of sin: but if any one become his own

^g Gregor. Nyssen. de Pœnitent. tom. iii. p. 176.

^h Basil. Regul. Brev. Resp. ccxxix. (Paris. 1638. vol. ii. p. 702.) 'Η ἐξαγόρευσις τῶν ἀμαρτημάτων τοῦτον ἔχει τὸν λόγον, ὃν ἔχει ἡ ἐπίδειξις τῶν σωματικῶν παθῶν· ὥς οὖν τὰ πάθη τοῦ σώματος οὐ πᾶσιν ἀποκαλύπτουσιν οἱ ἄνθρωποι, ἀλλὰ τοῖς ἐμπείροις τῆς τούτων θεραπείας· οὕτω καὶ ἡ ἐξαγόρευσις τῶν ἀμαρτημάτων γίνεσθαι ὀφείλει ἐπὶ τῶν δυναμένων θεραπεύειν, κατὰ τὸ γεγραμμένον, Ὑμεῖς οἱ δυνατοὶ τὰ ἀσθενήματα τῶν ἀδυνάτων βαστάζετε, θεραπεύετε, αἰρετε διὰ τῆς ἐπιμελείας.

ⁱ Origen. Homil. ii. in Psalm. xxxvii. tom. i. p. 471. (p. 293. f. edit. Paris. 1604.) Vide quid edocet nos Scriptura divina, quia oportet peccatum non celare intrinsecus. Fortassis enim, sicut ii qui habent intus inclusam escam indigestam, aut humoris vel phlegmatis stomacho graviter et moleste immanentis abundantiam, si vomuerint, relevantur; ita etiam hi qui peccaverunt, siquidem occultant, et retinent intra se peccatum, intrinsecus urgentur, et propemodum suffocantur a phlegmate, vel humore peccati. Si autem ipse sui accusator fiat, dum accusat semet ipsum et confitetur, simul evomit et delictum, atque omnem morbi digerit causam. Tantummodo circumspice diligentius, cui debeas confiteri peccatum tuum. Proba prius medicum, cui debeas causam languoris exponere, qui sciat infirmari cum infirmante, flere cum flente, qui condolendi et compatiendi noverit disciplinam: ut ita demum, si quid ille dixerit qui se prius et eruditum medicum ostenderit et misericordem, si quid consilii dederit, facias et sequaris. Si intellexerit et præviderit, talem esse languorem tuum, qui in conventu totius ecclesiæ exponi debeat et curari, ex quo fortassis et ceteri ædificari poterunt, et tu ipse facile sanari, multa hoc deliberatione, et satis perito medici illius consilio procurandum est. (Paris. 1733. vol. ii. p. 688 F.)

accuser, and confess his sin, in so doing he as it were vomits up his sin, and digests and removes the cause of his distemper. Only be circumspect in the choice of him to whom it will be fit to confess thy sin. Try first the physician to whom thou art to reveal the cause of thy distemper, and see that he be one who knows how to be weak with him that is weak, and to weep with him that weeps; one who understands the discipline of condoling and compassionating; that so at length, if he shall say anything, who hath first showed himself to be both a skilful and a merciful physician, and give thee any counsel, thou mayest observe and follow it. If he discerns and foresees thy distemper to be such as will need to be declared and cured in the full assembly of the Church, whereby others perhaps may be edified, and thou thyself healed, this is to be done with great deliberation, and the prudent advice of such a physician." It is very plain that, in this case, this sort of private confession was made in order to take the minister's advice concerning doing public penance for any private sin; and that men had recourse to him in private, as to one who was best able to judge, whether their sin were of such a nature, as would require a public humiliation and repentance. For this, as I said before, was no unusual thing in those days, for men sometimes to desire to do public penance for private offences; yea even for the very intention and design of some grosser sins, though they never proceeded so far as the outward action. Cyprian speaks of some such offenders, who reckoned themselves guilty of idolatry,^k not because they had either actually sacrificed to idols, or procured any libel to signify their so doing, but only because they had designed in their hearts to do it: who therefore confessed their wicked intention to the priests, in order to do public penance for it, (though it was but a small sin in comparison,) as knowing that it was written, 'God is not mocked.' These private sins, after secret confession, were sometimes publicly declared and read out of a libel in

^k Cyprian. de Lapsis. (Oxon. 1682. p. 134.) (p. 95, edit. Fell. Amstelod. 1700.) *Quanto et fide majores et timore meliores sunt, qui quamvis nullo sacrificii aut libelli facinore constricti, quoniam tamen de hoc vel cogitaverunt, hoc ipsum apud sacerdotes Dei dolenter et simpliciter confitentes, exomologesin conscientie faciunt, animi sui pondus exponunt, salutarem medelam parvis licet et modicis vulneribus exquirunt; scientes scriptum esse, 'Deus non irridetur.'*

the congregation: but all bishops¹ did not approve of this practice: and therefore when Pope Leo understood, that several bishops in the provinces of Campania, Samnium, and Picenum, took this method, he wrote a sharp letter to them,¹ complaining of it “as an unlawful usurpation and irregular practice, to put those who made secret confession to the priests, upon a public rehearsal of their crimes afterwards in the face of the congregation: which custom ought by all means to be abrogated and laid aside. For though it may seem a very laudable plenitude of faith, that, for the fear of God, makes men not afraid to take shame before men; yet because all men’s sins, which come under penance, are not such as they are not afraid to have made public, this unreasonable custom ought to be altered, lest many should be driven from the remedy of repentance, whilst either they are ashamed or afraid to have their actions laid open before their enemies, who per-

¹ Vide Basil. can. lxi. (Labbé, vol. ii. p. 1749.) ‘Ο κλέψας, εἰ μὲν ἀφ’ ἑαυτοῦ μεταμελήθῃσι κατηγορήσει ἑαυτοῦ, ἐνιαυτὸν κωλυθήσεται μόνῃς τῆς κοινωνίας τῶν ἁγιασμάτων.—Can. lxiii. ‘Ο ἐν ἀλόγοις τὴν ἑαυτοῦ ἀσέβειαν ἐξαναγορεύων, τὸν αὐτὸν λόγον ἐξομολογούμενος παραφυλάττεται.—Paulin. vit. Ambros. p. 10. (p. 87. h. i. edit. Paris. 1642.) (Paris. 1836. vol. i. p. xiv.) Quotiescumque illi aliquis ob percipiendam poenitentiam lapsus suos confessus esset, ita flebat, ut et illum flere compelleret; videbatur enim sibi cum jacente jacere. Caussas autem criminum, quæ illi confitebatur, nulli nisi Domino soli, apud quem intercedebat, loquebatur: bonum relinquens exemplum posteris sacerdotibus, ut intercessores apud Deum magis sint, quam accusatores apud homines, &c.—Ambros. de Pœnit. lib. i. c. xvi. (Paris. 1836. vol. iv. p. 103.) Si quis occulta crimina habens, propter Christum tamen studiose poenitentiam egerit quomodo ista recipit, si ei communio non refunditur? etc.—Gennad. de Dogmat. Eccles. c. liii. (inter opera Augustin. tom. iii. p. 205, edit. Basil. 1569.) Quem mortalia crimina post baptismum commissa premunt, hortor prius publica poenitentia satisfacere, et ita sacerdotis iudicio reconciliatum communioni sociari.

¹ Illam etiam contra apostolicam regulam præsumtionem, quam nuper agnovi a quibusdam illicita usurpatione committi, modis omnibus constituo submoveri; ne de singulorum peccatorum genere libellis scripta confessio publice recitetur: quum reatus conscientiarum sufficiat solis sacerdotibus indicari confessione secreta. Quamvis enim plenitudo fidei videatur esse laudabilis, quæ propter Dei timorem apud homines erubescere non veretur; tamen quia non omnium hujusmodi sunt peccata, ut ea, quæ poenitentiam poscunt, non timeant publicare, removeatur tam improbabilis consuetudo, ne multi a poenitentis remedii arceantur, dum aut erubescunt, aut metuunt inimicis suis sua facta reserari, quibus possint legum constitutione percelli. (Labbé, vol. iii. p. 1373. E 10.)

haps might take occasion from thence to bring them into danger of the civil laws, and the penalties imposed by them upon such offences." Which last words of Leo suggest a further reason, why the ancients in some cases allowed of private confession, even when the penance itself in its exercise was to be public. For we may observe,

SECT. IX.—5. *When there was any danger of Death arising from the Laws of the State against certain offences.*

5. That when there was any apparent danger to men's lives or otherwise, arising from the penalties of the civil laws, inflicting capital punishments on certain offences; in that case the Church was content to take a private confession of sinners, and excuse them from a dangerous publication. It is of this case St. Austin speaks, when he says,^m "We ought to correct secret sins in secret, lest if we publicly reprove them, we betray the man. We would reprove and correct him: but what if an enemy lies upon the catch, to hear something for which he may punish him? A bishop, put the case, perhaps knows a man to be a murderer, and besides himself no one else knows it; I would publicly rebuke the man; but then you would seek to take the law upon him. In this case, I neither betray the man nor neglect him: I reprove him in secret; I set before his eyes the judgment of God; I terrify his bloody conscience, and persuade him to repentance." It happened also that sometimes persons confessed such secret sins, as though they would not endanger their lives by a regular course of law, yet might provoke an injured party, if he knew them, in a sudden fit of zeal and passion to destroy them. In this case it was thought more proper to let the confession and penance be both in private, lest any such inconvenience might follow upon the publi-

^m Augustin. Serm. xvi. de Verbis Domini, c. viii. (tom. x. Opp. p. 72, edit. Basil. 1569.) (Bened. 1700. vol. v. p. 310. F 5.) In secreto debemus corripere, in secreto arguere: ne volentes publice arguere, prodamus hominem. Nos volumus corripere et corrigere: quid si inimicus querit audire quod puniat? Novit enim nescio quem homicidam episcopus, et alius illum nemo novit. Ego volo publice corripere, at tu queris inscribere. Prorsus nec prodo, nec negligo: corripio in secreto; pono ante oculos Dei judicium; terreo cruentam conscientiam; persuadeo poenitentiam.

cation. St. Basil^a instances in the case of a woman that confesses herself guilty of adultery: the law allowed not the husband to kill her, except he took her in the very act: but it might happen, that in his zeal and fury he might be tempted even against law to kill her, if by any means he came to understand that she had been guilty of such a transgression: therefore to avoid the occasion of any such temptation, it was ordered, that no minister should δημοσιεύειν, publish the crime of women under penance of adultery upon their own confession, lest it should occasion their death; that is, expose them to the fury of their husbands, who might be inclined in the height of passion to exceed all bounds, and do what by law they could not answer.

SECT. X.—6. *Private Confession required in case of private Admonition for offences.*

6. I remember but one case more in which any thing like private confession was required; and that was, when any man was rebuked for a crime by his spiritual guide, of which he was either notoriously guilty, or violently suspected: in that case it was his duty to give glory to God, and take shame to himself, by an ingenuous confession and acknowledgment of his fault, to answer the true end of private admonition. It is of this sort of confession St. Ambrose^o speaks in the person of David, when he says, that “being rebuked by a private man for his great offence, he did not fret and fume with indignation, but ingenuously confess his fault, and mourn with sorrow for it.”

SECT. XI.—*The office of the penitentiary Priest set up in many Churches to receive and regulate such private Confessions.*

All these sorts of private confession were anciently allowed of, as consistent with the standing and ordinary discipline of

^a Basil. can. xxxiv. (Labbé, vol. ii. p. 1741.) Τὰς μοιχευθείσας γυναῖκας, καὶ ἐξαγορευούσας δι' εὐλάβειαν, ἢ ὅπως οὖν ἐλεγχόμενας, δημοσιεύειν μὲν ἐκώλυσαν οἱ πατέρες ἡμῶν, ἵνα μὴ θανάτου αἰτίαν παράσχωμεν ἐλεγχθείσας.

^o Ambros. de Apolog. David. i. cap. ii. (Paris. 1836. vol. ii. p. 2.) Quum a privato homine corripere, quod graviter deliquisset, non indignatus infremuit, sed confessus ingemuit culpæ dolore.

public confession and penance in the Church. And the better to regulate them, and direct men what to do in such cases, there was a particular officer appointed in many Churches under the name of the Penitentiary Priest: whose office was not to receive private confessions in prejudice to the public discipline; much less to grant absolution privately upon bare confession before any penance was performed; (which was a practice altogether unknown to the ancient Church, as we shall see more hereafter :) but it was to facilitate and promote the exercise of public discipline, by acquainting men what sins the laws of the Church required to be expiated by public penance, and how they were to behave themselves in the performance of it; and only to appoint private penance for such private crimes as were not proper to be brought upon the public stage, either for fear of doing harm to the penitent himself, or giving scandal to the Church.

SECT. XII.—*This office afterwards abrogated, and men were entirely left to their liberty, as to what concerned private Confession.*

The whole history of the first original and institution of this office in the time of the Decian persecution, and the abrogation of it by Nectarius bishop of Constantinople in the time of Theodosius, is entirely owing to the relation of Socrates and Sozomen, two historians, who lived in the same age that the office was abolished; and therefore it will be proper to relate it in their words first, and then make a few remarks upon it. Socrates,^p speaking of the reign of Theodosius, says, “About

P Soerat. lib. v. c. xix. (Vales. 1700. p. 228.) Ὑπὸ τὸν αὐτὸν χρόνον, ἔδοξε καὶ τοὺς ἐπὶ τῆς μετανοίας περιελθεῖν πρεσβυτέρους τῶν ἐκκλησιῶν, δι’ αἰτίαν τοιαύτην· ἀφ’ οὗ Ναυατιανοὶ τῆς ἐκκλησίας διεκρίθησαν, τοῖς ἐπτακίσιν ἐν τῷ ἐπὶ Δεκίου διωγμῷ κοινωνῆσαι μὴ θελήσαντες, οἱ ἐπίσκοποι τῷ ἐκκλησιαστικῷ κανόνι τὸν πρεσβύτερον τὸν ἐπὶ τῆς μετανοίας προσέθεσαν, ὥπως ἂν οἱ μετὰ τὸ βάπτισμα πταίσαντες ἐπὶ τοῦ προβληθέντος τούτου πρεσβυτέρου ἱεξιμολογῶνται τὰ ἁμαρτήματα· οὗτος δὲ κανὼν κρατεῖ μέχρι νῦν ἐν ταῖς ἄλλαις αἰρέσεσι· μόνοι δὲ οἱ τοῦ ὁμοουσίου φρονήματος, καὶ οἱ τούτοις κατὰ τὴν πίστιν ὁμόφρονες Ναυατιανοὶ, τὸν ἐπὶ τῆς μετανοίας πρεσβύτερον παρρητήσαντο. Ναυατιανοὶ μὲν γὰρ οὐδὲ τὴν ἀρχὴν τὴν προσθήκην ταύτην ἐδέξαντο· οἱ δὲ νῦν τῶν ἐκκλησιῶν κρατοῦντες, ὥς πολλοῦ φυλάξαντες, ἐπὶ Νεκταρίου τοῦ ἐπισκόπου μετέθεσαν, τοιοῦτου τινὸς ἐπὶ τὴν ἐκκλησίαν συμβάντος· γυνή τις τῶν εὐγενῶν

this time it was thought proper to remove the Penitentiary Presbyters, τοὺς ἐπὶ τῆς μετανοίας πρεσβυτέρους, out of the Churches upon this occasion. From the time that the Novatians made their separation from the Church, refusing to communicate with those that lapsed in the Decian persecution, the bishops added to the ecclesiastical roll (τῷ ἐκκλησιαστικῷ κανόνι) a Penitential Presbyter; that they who fell into any sins after baptism, might make confession of them before the presbyter thereto appointed. And this order continues still among other sects; only they who receive the consubstantial doctrine, and the Novatians who agree with them in the same faith, are equally now agreed to reject the Penitential Presbyter. The Novatians indeed never admitted this additional office from the beginning; and the present governors of the Churches, though they allowed it for a long time, yet now under Nectarius laid it aside, upon a certain accident that happened in the Church. For a certain gentlewoman coming to the Penitentiary Presbyter, made particular confession of her sins that she had committed after baptism. And the Presbyter enjoined her to fast and pray continually, that together with her confession she might show forth works worthy of repentance. But the woman proceeding in the course of her penance, accused herself of another sin: for she confessed, that one of the deacons of the Church had defiled

προσῆλθεν τῷ ἐπὶ τῆς μετανοίας πρεσβυτέρῳ· καὶ κατὰ μέρος ἐξομολογεῖται τὰς ἀμαρτίας, ὡς ἐπεπράχει μετὰ τὸ βάπτισμα· ὁ δὲ πρεσβύτερος παρήγγειλε τῇ γυναικί, νηστεύειν καὶ συνεχῶς εὐχεσθαι, ἵνα σὺν τῇ ὁμολογίᾳ καὶ ἔργον τι δεικνύειν ἔχῃ τῆς μετανοίας ἄξιον· ἡ δὲ προβαίνουσα, καὶ ἄλλο πταῖσμα ἑαυτῆς κατηγόρει· ἔλεγε γάρ, ὡς εἶη συγκαθευδύσας αὐτὴ τῆς ἐκκλησίας διάκονον· τοῦτο λεχθὲν, τὸν μὲν διάκονον τῆς ἐκκλησίας ἐκπεσεῖν παρεσκεύασε· ταραχὴ δὲ κατέσχε τὰ πλήθη· ἡγανάκτουν γὰρ οὐ μόνον ἐπὶ τῷ γενομένῳ, ἀλλ' ὅτι καὶ τῇ ἐκκλησίᾳ βλασφημίαν ἢ πᾶξις καὶ ὕβριν προεξένησεν· διασυρομένων δὲ ἐκ τούτου τῶν ἱερωμένων ἀνδρῶν, Εὐδαίμων τις τῆς ἐκκλησίας πρεσβύτερος, Ἀλεξανδρὸς τὸ γένος, γνώμην τῷ ἐπισκόπῳ δίδωσι Νεκταρίῳ, περιελθεῖν μὲν τὸν ἐπὶ τῆς μετανοίας πρεσβύτερον· συγχωρῆσαι δὲ ἕκαστον, τῷ ἰδίῳ συνειδότε τῶν μυστηρίων μετέχειν· οὕτω γὰρ μόνον ἔχειν τὴν ἐκκλησίαν τὸ ἀβλασφήμῃον. Ταῦτα παρὰ τοῦ Εὐδαίμονος ἀκούσας ἐγὼ, τῇ γραφῇ τῇδε παραδύναμι ἐθάψῃσα... Ἐγὼ δὲ πρὸς τὸν Εὐδαίμονα πρότερον ἔφην, Ἡ συμβουλὴ σου, ὦ πρεσβύτερε, εἰ συνήνεγκεν τῇ ἐκκλησίᾳ, ἢ εἰ μὴ, Θεὸς ἂν εἰδείη· ὁρῶ δὲ ὅτι πρόφασιν παρέσχε τοῦ μὴ ἐλέγχειν ἀλλήλων τὰ ἀμαρτήματα, μὴ δὲ φυλάττειν τὸ τοῦ ἀποστόλου παράγγελμα τὸ, λέγον, Μηδὲ συγκοινωνεῖτε τοῖς ἔργοις τοῖς ἀκάροις τοῦ σκότους, μᾶλλον δὲ καὶ ἐλέγχετε.

her. Which occasioned the deacon to be cast out of the Church ; and there was no small stir among the people, who were incensed not barely for the fact, but because it brought great scandal and reproach upon the Church. And the clergy being chiefly reviled upon this occasion, one Eudæmon, a presbyter of the Church, born at Alexandria, gave counsel to Nectarius to take away the Penitentiary Presbyter, and leave it to every man's liberty to partake of the holy mysteries according to the direction of his own conscience : for this was the only way to free the Church from reproach." This, he says, he the more confidently inserted into his history, because he had it from the mouth of Eudæmon himself ; though he told Eudæmon he doubted whether his counsel was for the advantage of the Church, since it would occasion the neglect of mutual reproof, and the transgression of that rule of the Apostle, ' Have no fellowship with the unfruitful works of darkness, but rather reprove them.' Sozomen,¹ in relating the same story, observes, that the chief offices of this Penitentiary Presbyter were, partly to direct such as had need of public penance, how to go about it, and perform it ; and partly to impose private exercises of repentance upon those that needed not to undergo the public : and therefore that he was to be both a prudent man, to direct the one ; and *ἐχέμυθον*, a man that could keep secrets without disclosing them, for the sake of the other. He observes further, that when Nectarius had abolished this office at Constantinople, his example was followed by almost all the bishops of the East ; but that it continued in use in the Western Churches, and chiefly at Rome, to prepare men for the public penance of the Church ; which he there takes occasion to describe in the whole course and process of it.

Now from hence it is obvious to observe, 1. That this office was not set up to encourage auricular confession in prejudice to the public discipline, but chiefly to promote the exercise of public penance in the Church. 2. That it was not of divine,

¹ Sozomen. lib. vii. c. xvi. (Vales. 1700. p. 589. D 7.) *Πρεσβύτερον δὲ τῶν ἀριστα πολιτευομένων, ἐχέμυθόν τε καὶ ἔμφρονα, ἐπὶ τοῦτο τετάχασιν· ὃ δὲ προσιόντες οἱ ἡμαρτηκότες, τὰ βεβιωμένα ὡμολόγουν· ὃ δὲ, πρὸς τὴν ἐκάστου ἁμαρτίαν, ὅ, τι χρὴ ποιῆσαι ἢ ἐκτίσαι ἐπιτίμιον δεῖς, ἀπέλυε, παρὰ σφῶν αὐτῶν τὴν δίκην εἰσπραξαμένους.*

but only ecclesiastical institution. And therefore, 3. As it was instituted by the wisdom of the Church for good ends, so when those ends could not be served, and perhaps better might, it was at the Church's liberty by the same wisdom to abolish it, and put it down again, as Nectarius did in the East. 4. That the abolishing of it did not necessarily imply the abolishing of public discipline; which still continued in force in the Eastern Church, notwithstanding the abrogation of this office; though perhaps something weakened in respect of private offenders; partly because they were not so much inclined to confess; and partly because the business of discipline now devolving wholly upon the bishops, as it was before, they had not leisure to attend it. 5. It is very plain from hence, that there was no necessity laid upon men to confess all their secret mortal sins before they came to the communion; but it was enough, as Valesius ingenuously confesses,^r for men to search their own consciences, whereby they thought they satisfied that precept of the Apostle, 'Let a man examine himself, and so let him eat of that bread, and drink of that cup.' And so we have taken a full view of confession, both public and private, so far as it was in use and practice in the ancient Church, beyond which it is none of my province to extend the enquiry, and search after the deviations and corruptions of modern ages, which the reader may find in any of our polemical writers against the Church of Rome, or discern them by the account that has here been given, reducing every thing to the primitive standard.

^r Vales. in Sozom. lib. vi. c. xxviii. (p. 114.) Notandus est hic locus; ex quo concludi videtur, eos qui ad sacrorum mysteriorum participationem olim accedebant, absque prævia peccatorum confessione id facere solitos esse. Non quod non tutius esset, peccata sua prius confiteri sacerdoti; sed quia satisfacere se existimabant præcepto apostoli dicentis, 'Probet autem se ipsum homo,' etc.

CHAPTER IV.

OF THE GREAT RIGOUR, STRICTNESS, AND SEVERITY OF THE
DISCIPLINE AND PENANCE OF THE ANCIENT CHURCH.SECT. I.—*Public Penance ordinarily allowed but once to any
sort of sinners.*

THERE remains now but one thing more to be considered in the exercise of the ancient public penance, and that is the great strictness, rigour, and severity of it, expressed against all sins that fell under public discipline, and more especially those that were of a more heinous and malignant nature. One instance of the severity of their penitential rules was, that they ordinarily admitted men but once to the privilege of public penance, and allowed no second penance to be performed in the Church by any sort of relapsers. I have already hinted this in the last chapter, and shall here give more evident proof of it, so far as concerns the general practice of the Church in the four first ages; showing withal what exceptions it admitted of, by the power that was lodged in every bishop's hands to moderate the exercise of discipline, as occasion might require, according to his own judgment and discretion. We do not, indeed, find any general rule or canon for this peremptory denial of a second penance to relapsers; but if we consider the practice of the Church, we shall find it almost universal. Hermes Pastor, who wrote in the beginning of the second century, plainly asserts this,^a "That the servants of God allowed but of once doing penance." And therefore he advises the husband, who has an adulterous wife, to receive her

^a Herm. Past. lib. ii. mandat. iv. n. i. Debet [maritus] recipere peccatricem [id est, adulteram uxorem] quæ pœnitentiam egit, sed non sæpe. Servis enim Dei pœnitentia una est.

once upon her repentance, but not oftener. Clemens Alexandrinus^b treads in the same steps, allowing but one repentance after baptism, and citing the authority of Hermes Pastor for it. Tertullian, whilst he was a Catholic, allowed with the Catholics one penance after baptism, which he calls the second, making the repentance of baptism to be the first, and this the last. "God," says he,^c "has placed in the porch, or entrance to the Church, a second repentance, which opens to those that knock: but now only once, because now a second time; never more, because the last was vain and to no purpose." Then describing the whole course of this public penance, he says again,^d "It is a second penance, and but one; which requires so much the more laborious exercise and trial, because it is a thing allowed us in our greatest exigency and distress." In like manner Origen,^e speaking of the difference between greater and lesser sins, says, "The former had no place of repentance allowed them but only once, or very seldom; whereas those common sins we fall into almost every day, always admit of repentance, and are redeemed immediately without intermission." There are several canons in the Council of Eliberis to the same purpose, that relapsers should not be admitted to communion by the benefit of a second repentance. One canon^f says, that "if any men commit adultery after they have done penance for idolatry, they shall no more be admitted

^b Clem. Alex. Stromat. ii. c. xiii. (p. 459, edit. Oxon. 1715.) (Paris. 1831. vol. ii. p. 158.) Τὸν οὖν εἰληφότα τὴν ἄφεσιν τῶν ἁμαρτιῶν, οὐκ ἔτι ἁμαρτάνειν χρή· ἐπὶ γὰρ τῇ πρώτῃ καὶ μόνῃ μετανοίᾳ τῶν ἁμαρτιῶν, αὕτη ἂν εἴη τῶν προὔπαρξάντων κατὰ τὸν ἔθνικόν καὶ πρῶτον βίον, τὸν ἐν ἀγνοίᾳ λέγων αὐτίκα τοῖς κληθεῖσι πρόκειται μετάνοια, ἡ καθαίρουσα τὸν τόπον τῆς ψυχῆς ἀπὸ τῶν πλημμελημάτων, ἵνα ἡ πίστις θεμελιωθῇ.

^c Tertull. de Pœnit. c. vii. (Paris. 1664. p. 126. B 6.) Deus collocavit in vestibulo pœnitentiam secundam, quæ pulsantibus patefaciat: sed jam semel, quia jam secundo, sed amplius numquam, quia proxime frustra.

^d Ibid. c. ix. Hujus pœnitentiæ secundæ et unius, quanto in arto negotium est, tanto operosior probatio est. (p. 126, last line.)

^e Origen. Hom. xv. in Levitic. tom. i. p. 174. (p. 109. d. edit. Paris. 1604.) In gravioribus criminibus, semel tantum vel raro pœnitentiæ conceditur locus: ista vero communia, quæ frequenter incurrimus, semper pœnitentiam recipiunt, et sine intermissione redimuntur.

^f Concil. Illiberit. c. iii. (Labbé, vol. i. p. 971.) Si qui post pœnitentiam fuerint mœchati, placuit ulterius his non esse dandam communionem, ne lusisse [illusisse] de dominica communione videantur.

to communion, that they may not seem to make a jest of the Lord's communion." Another^g orders, that "if any of the faithful, who is under penance for adultery, commit fornication in the time of his penance, he shall not have the communion even at his last hour." And a third canon^h orders, that "if a man who has been under penance for adultery, and is admitted to communion in sickness, or danger of imminent death, shall after his recovery commit adultery again, he shall no more make a jest of the communion of peace;" that is, not have the privilege of a second penance, to obtain a second reconciliation or absolution.

Neither was this only the discipline of the three first ages, but it continued to be the practice for an age or two after: for St. Ambrose and St. Austin speak of it as still in use in their time. "They who think of doing penance often," says St. Ambrose,ⁱ "are deservedly reprov'd, because they grow wanton against Christ: for if they did penance truly, they would not think it was to be repeated; because as there is but one baptism, so there is but one penance, that is performed in public. There is indeed a daily repentance for sin, but that is for lesser sins, and the other for greater." In like manner St. Austin^k says, "It was wisely and usefully ordered, that there should be no room for that public and humblest sort of penance in the Church; lest it should make the remedy of sin contemptible, and so less useful to the sinner." This was the practice of the Roman Church also in the time of Siricius;

^g Ibid. can. vii. (p. 971.) Si quis forte fidelis post lapsum mœchiæ, post tempora constituta, accepta pœnitentia, denuo fuerit fornicatus, placuit nec in fine eum habere communionem.

^h Ibid. c. xlvii. (p. 975.) Si quis fidelis, habens uxorem, non semel sed sæpe fuerit mœchatus, in fine mortis est conveniendus. Quod si se promiserit cessaturum, detur ei communio. Si resuscitatus rursus fuerit mœchatus, placuit ulterius non ludere eum de communione pacis.

ⁱ Ambros. de Pœnit. lib. ii. c. x. (Paris. 1836. vol. iv. p. 117.) Merito reprehenduntur, qui sæpius agendam pœnitentiam putant; quia luxuriantur in Christo. Nam si vere agerent pœnitentiam, iterandam esse non putarent: quia sicut unum baptisma, ita una pœnitentia, quæ tamen publice agitur: nam quotidiani nos debet pœnitere peccati; sed hæc delictorum leviorum, illa graviorum.

^k Augustin. Epist. liv. ad Macedonium, (Bened. 1700. vol. ii. p. 399. D 3.) Cautè salubriterque provisum, ut locus illius humillimæ pœnitentiæ semel in ecclesia concedatur, ne medicina vilis minus utilis esset ægrotis, etc. (See note (t) p. 475.)

and Innocent and Leo, who commonly follow his prescriptions. The decree of Siricius about this matter runs in these terms: "Forasmuch as that they who, after penance, return like dogs to their vomit, or swine to their wallowing in the mire, cannot have¹ the benefit of a second penance; we decree, that they shall communicate with the faithful in prayer only, and be present at the celebration of the eucharist, but not partake of the Lord's Feast at his table; that by this punishment they may learn to chastise their errors privately in themselves, and also set others an example how to abstain from the lusts of uncleanness. Yet for as much as they fall by the frailty of the flesh, we would have them to be allowed their viaticum at the last, and be assisted with the grace of communion, when they are going to the Lord." It appears also from the canons of several councils in the same age, that such relapsers were either wholly cast out of the Church, or at least kept back from the communion all their days, without being admitted to the benefit of any formal penance to restore them: as may be seen in the second Council of Arles,^m the Council of Vannes,ⁿ the first of Tours,^o and the first of

¹ Siric. Epist. i. ad Himerium, cap. v. (Labbé, vol. ii. p. 1019.) De his, qui, acta poenitentia, tamquam canes ac sues, ad vomitus pristinos et ad volutabra redeunt . . . quia jam suffugium non habent poenitendi, id duximus decernendum, ut sola inter ecclesiam fidelibus oratione jungantur; sacrae mysteriorum celebritati, quamvis non mereantur, intersint: a dominicæ autem mensæ convivio segregentur, ut hac saltem distinctione correpti, et ipsi in se sua errata castigant, et aliis exemplum tribuant, quatenus ab obscenis cupiditatibus retrahantur. Quas tamen, quoniam carnali fragilitate ceciderunt, viatico munere, quum ad Dominum cœperint proficisci, per communionis gratiam volumus sublevari [subveniri].

^m Concil. Arelat. II. c. xxi. (Labbé, vol. iv. p. 1013.) Poenitens quæcumque defuncto viro alii nubere præsumserit, vel suspecta, vel interdicta familiaritate cum extraneo vixerit, cum eodem 'ab ecclesiæ liminibus arceatur.' Hoc etiam de viro in poenitentia posito placuit observare.

ⁿ Concil. Venetic. c. iii. Poenitentes, qui susceptam publice poenitentiam intermiserint, et ad prioris erroris consuetudinem revoluti, vitæ se sæculari conversationique reddiderint, non solum a communione Dominicorum sacramentorum, sed etiam a conviviis fidelium submovendos.

^o Conc. Turon. I. c. viii. (Labbé, vol. iv. p. 1052.) Si quis post acceptam poenitentiam, sicut canis ad vomitum suum, ita ad sæculares illecebras, derelicta quam professus est poenitentia, fuerit reversus, a communione ecclesiæ vel a convivio fidelium extraneus habeatur, quo facilius et ipse compunctionem per hanc confusionem accipiat, et alii ejus terreantur exemplo.

Orleans,^p but more especially the third of Toledo, where notice is taken of the contrary custom beginning to creep into some of the Spanish Churches, and a strict order is made to correct it by reviving the ancient discipline of the Church. "We hear," say they,^q "that in some of the Spanish Churches penance is not done according to canon, but after a very base fashion, that as often as men are pleased to sin, so often they require of the presbyters to be reconciled or absolved: to restrain which execrable presumption, the holy synod appoints, that penance shall be granted only according to the form of the ancient canons: and if any, either during the time of their penance, or after their reconciliation, relapse into their old vices, they shall be condemned according to the severity of former canons:" that is, they shall not have liberty of repeating public penance *toties quoties* in the Church. They did not deny men private penance, either for lesser sins of daily incursion, or for relapses into greater sins; but exhorted men to repent in both cases, in hopes of obtaining mercy and pardon from God by a sincere contrition and the diligent exercise of a private repentance. No confession was taken by the priest in either of these cases: for the first did not need it, and the second was not allowed it; only at their last hour relapsers were admitted to the communion and peace of the Church, if they had exercised themselves diligently in all the proper acts of private repentance.

^p Concil. Aurel. I. c. xi. (Labbé, vol. iv. p. 1406.) De his qui, suscepta poenitentia, religionem sacrae professionis obliti ad saecularia relabuntur, placuit eos et a communione suspendi, et ab omnium catholicorum convivio separari.—Concil. Ilerdens. c. v. (Labbé, vol. iv. p. 1612.) Quod si iterato, velut canes ad vomitum, reversi fuerint, non solum dignitate officii careant, sed etiam sanctam communionem, nisi in exitu, non percipiant.

^q Concil. Tolet. III. c. xi. (Labbé, vol. v. p. 1011.) Comperimus, per quasdam Hispaniae ecclesias, non secundum canonem, sed foedissime pro suis peccatis homines agere poenitentiam, ut quotiescunque peccare libuerit, toties a presbyteris se reconciliari expostulent: et ideo pro coercenda tam execrabili presumptione id a sancto concilio jubetur, ut secundum formam canonum antiquorum detur poenitentia. . . . Hi vero, qui ad priora [propria] vitia, vel infra poenitentiae tempus, vel post reconciliationem relabuntur, secundum priorum canonum severitatem damnentur.

SECT. II.—2. *Some Sinners held under a strict Penance all their lives to the very hour of death.*

2. And this leads us to consider another instance of the great strictness and severity of the ancient discipline, which was, that, for some certain sins, men were kept under the exercise of public penance all their lives, and only absolved and reconciled at the point of death. The ordinary course of penance often held men for ten, fifteen, or twenty years in going through the several stages of repentance : but, for some more heinous and enormous crimes, no certain term of years was limited, but their lives ; and perfect reconciliation and absolution was only granted them at their last hour, when imminent danger of death was upon them. Thus the Council of Eliberis ^r orders, “ That if any one took upon him the office of a Flamen, or Gentile priest, though he did not offer sacrifice, but only exhibit the usual games or shows to the people, he should do a severe and canonical penance all his life, and only be admitted to communion at the point of death.” The like order is given ^s about consecrated virgins ; that if any of them committed fornication, they should do penance all the time of their life, and only have the communion at the hour of death. The Council of Neocæsarea ^t appoints the same for a woman that marries two brothers, that she shall be cast out of communion unto death : but at her last hour, to show clemency toward her, if she promise upon her recovery to dissolve the marriage, she shall have the benefit of repentance. The first Council of Arles ^u inflicts the same punishment upon those that falsely accuse their brethren, that they shall not

^r Concil. Illiberit. c. iii. (Labbé, vol. i. p. 971.) Item flamines, qui non immolaverint, sed munus tantum dederint, eo quod se a funestis abstinerunt sacrificiis, placuit in fine eis præstari communionem, acta tamen legitima poenitentia.

^s Ibid. can. xiii. (Labbé, vol. i. p. 972.) Si omni tempore vitæ suæ hujusmodi feminæ egerint poenitentiam, placuit eas in fine accipere debere communionem.

^t Concil. Neocæsar. c. ii. (Labbé, vol. i. p. 1481.) Γυνή ἐὰν γήμηται δύο ἀδελφοῖς, ἐξωθείσθω μέχρι θανάτου· πλὴν ἐν θανάτῳ, διὰ τὴν φιλανθρωπίαν, εἰπούσα, ὡς ὑγιάνασα λύσει τὸν γάμον, ἔξει τὴν μετάνοιαν.

^u Concil. Arelat. I. c. xiv. (Labbé, vol. i. p. 1428.) De his, qui falso accusant fratres suos, placuit eos usque ad exitum non communicare.

communicate to the hour of death. The Council of Ancyra ^v decrees the like for such married men as are guilty of bestiality after they are fifty years old, that they shall not be received into communion till the end of their life. The Council of Valence ^x in France laid the same penalty upon some that fell into idolatry, "That they should do penance to the hour of death, yet not without hopes of remission, which they were to expect more fully from God, who was the Donor of it."—The Council of Lerida ^y allows the inferior clergy to do penance for a first offence, and regain their office upon it: but if they return like dogs to their vomit, and as swine to their wallowing in the mire, they are not only to be deprived of their office, but of the communion to their last hour.—And so Felix the third, ^z bishop of Rome, determined in the case of those African bishops, presbyters, and deacons, who suffered themselves to be rebaptized by the Arians in the Vandalic persecution: that they continue under penance to the day of their death; and neither be present at the prayers of the faithful, nor the catechumens, and only be admitted to lay-communion at the point of death.

^v Concil. Ancyran. c. xvi. (Labbé, vol. i. p. 1461.) *Εἰ δὲ τινες καὶ γυναῖκας ἔχοντες, καὶ ὑπερβάντες τὸν πεντηκονταετὴ χρόνον, ἡμαρτον, ἐπὶ τῇ ἐξόδῳ τοῦ βίου τυγχάνεωσαν τῆς κοινωνίας.*

^x Concil. Valentin. an. 374. can. iii. (Labbé, vol. ii. p. 905.) Circa eorum personas, qui se post unum et sanctum lavacrum, vel profanis sacrificiis dæmonum, vel incesta lavatione polluerint, eam censure formam duximus esse servandam, ut his juxta synodum Nicænam satisfactionis quidem aditus non negetur, ne infelicibus lacrimis vel solatii janua desperatione claudatur: acturi vero poenitentiam usque in diem mortis, non sine spe tamen remissionis, quam ab eo plene sperare debebunt, qui ejus largitatem et solus obtinet, et tam dives misericordia est, ut nemo desperet. Deus enim mortem non fecit, nec lætatur in perditione vivorum.

^y Concil. Ilerdens. c. v. See p. 498, note (p).

^z Felic. iii. in Concil. Roman. c. ii. Usque ad exitus sui diem in poenitentia jacere conveniet; nec orationi modo fidelium, sed nec catechumenorum omnimodis interesse, quibus communio laica tantum in morte reddenda est.

SECT. III.—3. *Such as were absolved upon a Death-bed, were obliged to perform their ordinary Penance, if they recovered.*

3. Another instance of the strictness and severity of the ancient discipline, is visible in the treatment of such penitents as were reconciled upon a death-bed. Though they were admitted to the peace and communion of the Church, when they were in extreme necessity, and imminent danger of death, that they might have their viaticum when they were about to leave the world; yet if they chanced to recover, they were obliged to perform the whole penance, more or less, whatever it was which they should have done, had not such an exigency procured them an absolution. And this is the only case in which the ancient Church ever allowed any absolution to be granted before the penance was duly and regularly performed. Which being an extraordinary case, it is nothing to those who think to justify the same practice now in ordinary cases: but of this more hereafter. As to the present observation, that penitents absolved upon a death-bed were, upon their recovery, reduced to the same state of penance, which they were to have been under, had not the necessity of sickness required their absolution, is evident from the plain testimony of several Councils. The Council of Nice^a orders such, upon their recovery, to be placed among those that communicated in prayers only: that is, in the fourth rank of penitents, called Co-standers, where they might stay to hear the prayers of the faithful, but not partake of the oblation. The fourth Council of Carthage has two canons relating to them. The first says,^b ‘If such a penitent recover, he shall be subjected to the ordinary laws of penance, as long as the priest who admitted him

^a Concil. Nicæn. c. xiii. (Labbé, vol. ii. p. 35.) *Εἰ δὲ ἀπογνοσθῆις, καὶ κοινωνίας πάλιν τυγχών, πάλιν ἐν τοῖς ζώσιν ἐξετασθῇ, μετὰ τῶν κοινωνούντων τῆς εὐχῆς μόνης ἔστω.*

^b Conc. Carth. IV. c. lxxvi. (Labbé, vol. ii. p. 1205.) *Is qui pœnitentiam in infirmitate petit, si casu, dum ad eum sacerdos invitatus venit, oppressus infirmitate obmutuerit, vel in phrenesin versus fuerit, dent testimonium, qui eum audierunt, et accipiat pœnitentiam. Et si continuo creditur moriturus, reconcilietur per manus impositionem, et infundatur ori ejus eucharistia. Si supervixerit, admoneatur a supra dictis testibus, petitioni suæ satisfactum; et subdatur statutis pœnitentiæ legibus, quamdiu sacerdos, qui pœnitentiam dederit, probaverit.*

to penance, shall judge convenient.' The other,^c 'That penitents, who in time of sickness receive the viaticum of the Eucharist, shall not think themselves absolved, unless they undergo imposition of hands, if they chance to recover :' that is, the imposition of hands which was given to penitents of the third order, called Prostrators, who were obliged to present themselves every day at Church, and kneel down before the bishop, to receive the solemn imposition of hands with the usual penitential prayers and benediction. The first Council of Orange^d more particularly explains the whole matter in this form : "They who are about to leave the body, when they are doing penance, may communicate without the reconciliatory imposition of hands, which sort of communion is sufficient for the consolation of a dying person, according to the decrees of the Fathers, who call this kind of communion their 'viaticum.' But if they survive, they shall stand in the order of penitents, that they may first show forth the necessary fruits of repentance, and then be received to communion in the ordinary and regular way, by the reconciliatory imposition of hands." The Council of Epone^e speaks much after the same manner : "That no one should be repelled from or by the Church without remedy, or hopes of pardon, nor the door of returning to pardon be shut against one that repents and corrects his errors : and if any one be in imminent danger of death, the time prescribed for his condemnation or penance

^c Ibid. c. lxxviii. (Labbé, vol. ii. p. 1206.) Pœnitentes, qui in infirmitate viaticum eucharistiæ acceperint, non se credant absolutos sine manus impositione, si supervixerint.

^d Concil. Arausic. I. can. iii. (Labbé, vol. iii. p. 1448.) Qui recedunt de corpore, pœnitentia accepta, placuit, sine reconciliatoria manus impositione eos communicari, quod morientis sufficit consolationi secundum definitiones patrum, qui hujusmodi communionem congruenter viaticum nominarunt. Quod si supervixerint, stent in ordine pœnitentium, ut ostensis necessariis pœnitentiæ fructibus legitimam communionem cum reconciliatoria manus impositione recipiant.

^e Concil. Epaun. c. xxxvi. (Labbé, vol. iv. p. 1580.) Ne ullus sine remedio aut spe veniæ ab ecclesia repellatur ; neve ulli, si aut pœnituerit, aut se correxerit, ad veniam redeundi aditus obstruatur : et si cuiquam forsitan discrimen mortis immineat, damnationis constituta tempora relaxentur. Quod si ægrotum, accepto viatico, revalescere fortasse contingit, statuti temporis spatia observare convenit.

shall be relaxed. But if it happens that the sick man recovers after he has received his viaticum, he must observe and fulfil the time of penance that was appointed him." Gregory Nyssen's canon^f is much to the same purpose: "If any one be in imminent danger of death, who has not gone through the whole time appointed for his penance; the clemency of the Fathers in that case has decreed, that he shall not take his long journey (out of the world) without his viaticum (or provision for it), nor without partaking of the holy mysteries. But if after participation he recover from his sickness, he must then continue the time appointed in that order or station of penitents in which he was, when this necessity and danger came upon him." To all these may be added the decree of the Roman Council under Felix III., an. 487, which renews^g the determination of the Nicene Fathers, "That if any of those who had been admitted to communion before the fixed time of their penance was completed, because their life was despaired of by the physicians, and evident signs of death were upon them, should happen afterwards to recover, they should at least continue in the fourth rank of penitents, among those that communicated only in prayers without the oblation, till the full term of their penance was ended."

SECT. IV.—*Some Sinners denied Communion at their last hour.*

But some sinners were yet more severely handled: for they were denied communion to the very last, and suffered to go out of the world without any manner of reconciliation. This

^f Gregor. Nyssen. epist. ad Letoium, c. iv. (Paris. 1615. vol. i. p. 952, at bottom.) Εἰ δὲ τις μὴ πληρώσας τὸν χρόνον, τὸν ἐκ τῶν κανόνων ἀφωρισμένον, ἐξοδεύει τοῦ βίου· κελεύει ἡ τῶν πατέρων φιλανθρωπία, μετασχόντα τῶν ἁγιασμάτων, μὴ κενὸν τοῦ ἐφοδίου, πρὸς τὴν ἐσχάτην ἐκείνην καὶ μακρὰν ἀποδημίαν ἐκπεμφθῆναι· εἰ δὲ μετασχὼν τοῦ ἁγιάσματος, πάλιν εἰς τὴν ζωὴν ἐπανέλθοι, ἀναμένειν τὸν τεταγμένον χρόνον, ἐν ἐκείνῳ τῷ βαθμῷ γενόμενον, ἐν ᾧ ἦν πρὸ τῆς κατὰ ἀνάγκην αὐτῷ δοθείσης κοινωνίας.

^g Concil. Roman. c. iv. (in epist. vii. Felic. III. Labbé, vol. iv. p. 1076. E 7.) Quod si ante præfinitum pœnitentiæ tempus desperatus a medicis, aut evidentibus mortis pressus indicis, recepta quisquam communionis gratia convalescit; servemus in eo, quod Niceni canones ordinarunt, ut habeatur inter eos, qui in oratione sola communicant, donec impleatur spatium temporis eidem præstitum.

discipline was generally used at first toward the three great sins of idolatry, adultery, and murder, which, as learned men agree,ⁱ continued almost to the time of Cyprian. Cyprian himself assures us,^k that many of his predecessors absolutely refused to admit adulterers to communion at their very last hour. And though this rigour was abated by general agreement toward penitents in his time, yet they still continued to deny communion, to the very last, to such apostates as persisted obstinate and impenitent all their lives, and only desired reconciliation, when the pangs of death were upon them. "They," says he,^l "who do no penance, nor ever testify any sorrow for their sin from their heart by manifest professions of lamentation, though they begin to deprecate and sue for pardon when infirmity and the danger of death is upon them, such we think fit to debar absolutely from all hopes of communion and peace: because it is not repentance for their sins, but only the apprehension and terror of approaching death that compels them to ask pardon; and he is not worthy to receive consolation at his death, who would not beforehand consider that he must shortly die." We find this rule concerning apostates some time after renewed by the first Council of Arles, where a decree was passed that 'such apostates^m as never presented

ⁱ Vide Albaspin. *Observat. lib. ii. c. vii. ad xx.*—Bon. *Rer. Liturgic. lib. i. cap. xvii. § i.* (Antverp. 1677. p. 398.) In exordio Christianæ religionis tantum erat pietatis studium, tantum odium improbitatis, ut quibusdam sceleribus, quæ atrociora visa sunt, omnis prorsus veniæ spes, omnis penitentia denegaretur; adeo ut qui ea commisisset, quamvis a divina misericordia eorum remissionem veræ contritionis subsidio obtineret, numquam tamen posset cum ecclesia reconciliari. Ea erant idololatria, homicidium, et adulterium, etc.—Fell. not. in Cyprian. *epist. viii. p. 17.* (p. 181, edit. Amstelod. 1700.) Voces illæ, 'Ab eo qui potest prestare,' subnectuntur; quia nondum ecclesia idololatræ decreto aliquo ad pœnitentiam admisit, licet statim id fecerit.

^k Cyprian. *Epist. lv. ad Antonian.* (Oxon. 1682.) p. 110. (p. 247, fin. seq. cit. edit.)

^l Ibid. p. 111. (p. 248. fin.) Pœnitentiam non agentes, nec dolorem delictorum suorum toto corde et manifesta lamentationis suæ professione testantes, prohibendos omnino censuimus a spe communicationis et pacis, si in infirmitate ac periculo cœperint deprecari; quia rogare illos non delicti pœnitentia, sed mortis urgentis admonitio compellit; nec dignus est in morte recipere solatium, qui se non cogitavit esse moriturum.

^m Concil. Arelat. I. c. xxii. (Labbé, vol. i. p. 1429.) De his qui apostatant, et numquam se ad ecclesiam repræsentant, ne quidem pœnitentiam agere

themselves to the Church, nor sought to do any manner of penance, but at last when they were seized with an infirmity, desired to have the communion, should, in that case, be debarred from it, unless they recovered, and brought forth fruits worthy of repentance.' And Innocent, bishop of Rome,^a plainly says, " This was the primitive custom for the three first ages of persecution : if any one after baptism spent his whole life in intemperance and pleasure, and in the end of his days desired penance and the reconciliation of communion ; they only admitted him to penance, but absolutely denied him communion. For in those days persecutions being very frequent, lest the easiness of obtaining communion should make men secure of reconciliation, and retard their returning from sin, communion was justly denied them, and only penance allowed them, that they might not be deprived of the whole : the consideration of the times made their remission or reconciliation more difficult to be obtained : but after the Lord had granted peace to his Church, and the terror of persecution was over, then it seemed good to the Church to receive all such to communion, when they were going out of the world, and for the mercy of the Lord to grant it to them as their viaticum or provision for their journey ; lest we should seem to follow the asperity and hardness of Novatian the heretic, who denied men pardon for greater sins committed after baptism." The canons of the Council of Eliberis do abundantly confirm this observation made by Pope Innocent upon the preceding ages

quærunr, et postea infirmitate arrepti petunt communionem, placuit, eis non dandam communionem, nisi revaluerint, et egerint dignos fructus poenitentiae.

^a Innocent. Epist. iii. ad Exuperium, cap. ii. (Labbé, vol. ii. p. 1255.) Quæsitum est quid de his observari oporteat, qui post baptismum omni tempore incontinentiae voluptatibus dediti, in extremo fine vitæ suæ poenitentiam simul et reconciliationem communionis exposcunt. De his observatio prior durior, posterior interveniente misericordia inclinatio est. Nam consuetudo prior tenuit, ut concederetur eis poenitentia, sed communicatio negaretur. Nam quum illis temporibus crebræ persecutiones essent, ne communionis concessa facilitas homines de reconciliatione securos non revocaret a lapsu, negata merito communicatio est, concessa poenitentia, ne totum penitus negaretur : et durio remissionem fecit temporis ratio. Sed posteaquam Dominus noster pacem ecclesiis suis reddidit, jam terrore depulso communionem dari abeuntibus placuit, et propter Domini misericordiam quasi viaticum profecturis, et ne Novatiani hæretici, negantis veniam, asperitatem et duritiam sequi videamur.

of persecution. For there are at least twenty canons in that Council which deny communion to the very last to several sorts of sinners, whose crimes were either doubled and tripled, or single crimes of a more flagrant scandal and heinous provocation. Thus the first canon determines^o in the case of voluntary idolaters and apostates, who, without any compulsion, went of their own accord to the temple, and offered sacrifice: this being a more heinous and capital offence than bare sacrificing by the violence and force of torture, it is ordered, that such apostates shall not have the communion even at their last hour. The next canon^p inflicts the same punishment upon such idolaters as are guilty of a complication of crimes: as when a Christian takes upon him the office of a Flamen, or heathen high-priest, and therein adds to his idolatry either adultery or murder. So if a man kills another by sorcery; because there is idolatry joined with murder, he is not to have the communion^q even at the hour of death. If a man whilst he is doing penance for idolatry or adultery, relapses into the same,^r or any other great crime, this repetition of his crime in such a case debars him from communion at his last hour. Another canon^s orders the like severity to be used towards women, who without cause forsake their own husbands, and are married to other men. And the same is determined in case a woman^t is married to a man whom she knows to have unlawfully divorced himself from a

^o Concil. Illiberit. can. I. (Labbé, vol. i. p. 969.) Placuit, qui [ut quicumque] post fidem baptismi salutaris, adulta ætate, ad templum idololatraturus accesserit, et fecerit, quod est crimen principale [capitale], nec in fine eum communionem accipere.

^p Ibid. can. ii. (p. 506.) Flamines, qui post fidem lavacri et regenerationis sacrificaverunt; eo quod geminauerint scelera, accedente homicidio, vel triplicaverint facinus, coherente mœchia, placuit eos nec in fine accipere communionem.

^q Concil. Illiberit. can. vi. (p. 971.) Si quis maleficio interficiat alterum, eo quod sine idololatria perficere scelus non potuit, nec in fine impertiendam esse illi communionem.

^r See note (r) p. 499.

^s Ibid. can. viii. (p. 971.) Feminae, quæ, nulla præcedente causa, reliquerint viros suos, et se copulaverint alteris, nec in fine accipiant communionem.

^t Ibid. can. x. (p. 971.) Si fuerit fidelis, quæ ducitur ab eo, qui uxorem inculpam relinquit, et quum scierit illum habere uxorem, quam sine causa relinquit, placuit, huic nec in fine dandam esse communionem.

former wife : both these sorts are denied communion to the very last. Another canon ^u subjects all panders and promoters of uncleanness to the same penalty, whether it be a father or mother, or any other Christian that exercises this abominable trade ; because they sell the bodies of others, or rather their own, they are not to have communion even at their last hour. The same is determined ^x in the case of a virgin dedicated to God : if she commit fornication, and continues in her uncleanness without reflecting upon what she has done, there is no absolution for her in her last minutes. As neither for the man ^y that marries his daughter to any idol-priest. Nor for any bishop, presbyter, or deacon, that commits adultery ^z whilst he is actually in the ministry, both because of the scandal, and also the wickedness and profaneness of the crime itself. So if a woman commits adultery in her husband's absence, and murders her infant,^a she is not to have communion at the very last, because she doubles her crime. In like manner a woman is to be treated,^b that lives in adultery all her life with another man. And also any clergyman,^c that knows his wife to be guilty of adultery, and does not immediately put her away ; lest they, who ought to be examples of good conversation to others, should seem to teach others the way to sin. The same

^u Ibid. c. xii. (p. 972.) Mater, vel parens, vel quælibet fidelis, si lenocinium exercuerit, eo quod alienum vendiderit corpus, vel potius suum, placuit, eas nec in fine accipere communionem.

^x Ibid. c. xiii. (p. 972.) Virgines, quæ se Deo dicaverint, si pactum perdiderint virginitatis, atque eidem libidini servierint, non intelligentes quod admiserint, placuit, nec in fine eis dandam esse communionem.

^y Ibid. can. xvii. (p. 972.) Si qui forte sacerdotibus idolorum filias suas junxerint, placuit, nec in fine eis dandam communionem.

^z Ibid. can. xix. (p. 973.) Episcopi, presbyteri, diaconi, si in ministerio positi, detecti fuerint, quod sint mœchati, placuit, et propter scandalum et propter profanum crimen, nec in fine eos communionem accipere debere.

^a Ibid. can. lxiii. (p. 977.) Si qua mulier per adulterium, absente marito, conceperit, idque post facinus occiderit ; placuit, neque in fine dandam esse communionem ; eo quod geminaverit scelus.

^b Ibid. can. lxvi. (p. 977.) Si qua mulier usque in finem mortis suæ cum alieno viro fuerit mœchata, placuit, nec in fine dandam ei esse communionem.

^c Ibid. can. lxxv. (p. 977.) Si ejus clerici uxor fuerit mœchata, et scierit eam maritus suus mœchari, et non eam statim projecit, nec in fine accipiat communionem : ne ab his, qui exemplum bonæ conversationis esse debent, ab eis videantur scelera magisteria procedere.

punishment^d is awarded to any one that commits incest by marrying his wife's daughter by a former husband. And to such as are conscious^e and consenting to their wife's adultery. And to all that commit sodomy^f with boys; and to women who commit adultery with any man, and afterwards marry^g another husband and not the man who defiled them. If any one turn informer against his brethren, so that they suffer^h banishment, confiscation, or death by his information, he is not to have communion at his last hour. If any one accuse a bishop, presbyter, or deacon of false crimes,ⁱ and do not make out what he alleges against them, he also is to be denied communion to the very last. I have represented these things at large, both to evidence the thing now asserted, and also to show what sort of heinous crimes those were, for which this great severity of discipline was used toward men at their last hour. Some learned persons are offended at this Council for its extreme severity and rigour. Auxilius^k heretofore brought the charge of Novatianism against Hosius and the Council together. And Suicerus^l asserts, that the orthodox Church always taught, that lapsers were to be received into communion upon their repentance:—which in effect is to bring the charge of Novatianism against this Council, and to make it no part of the orthodox Church. But then the diffi-

^d Ibid. can. lxi. (p. 977.) Si quis privignam suam duxerit uxorem, eo quod sit incestus, placuit, nec in fine dandam esse ei communionem.

^e Ibid. can. lxx. (p. 978.) Si cum conscientia mariti uxor fuerit mœchata, placuit, nec in fine dandam esse communionem.

^f Ibid. can. lxxi. (p. 978.) Stupratoribus puerorum nec in fine dandam esse communionem.

^g Ibid. can. lxxii. (p. 978.) Si qua vidua fuerit mœchata . . . Si alium duxerit relicto illo, nec in fine dandam esse communionem.

^h Ibid. can. lxxiii. (p. 978.) Delator si quis exstiterit fidelis, et per delationem ejus aliquis fuerit præscriptus, vel interfectus, placuit eum nec in fine accipere communionem.

ⁱ Ibid. can. lxxv. (p. 978.) Si quis episcopum, vel presbyterum, aut diaconum falsis criminibus appetierit, et probare non potuerit, nec in fine dandam ei communionem.

^k Auxil. de Ordinat. Formosi, lib. i. c. xii. et xiv. lib. ii. c. xxiii. (ad calc. Morini de Ordinat. p. 300. 301. 304, edit. Antverp. 1695.)

^l Suicer. Thesaur. Eccles. voce *μετάνοια*, p. 357. (Amstel. 1728.) Lapsos, si quidem poenitentiam egerint, recipiendos esse, constanter docuit ecclesia orthodoxa.

culty will be, how to clear Cyprian and the Council of Arles from the same charge of Novatianism. For it is plain they were in the same sentiments as to what concerned apostates, who neglected penance to the hour of death: and not only they, but the great Council of Sardica, which restored Athanasius, will be involved in the same condemnation. For there is a canon in that Council, which is as peremptory in this matter as any in the Council of Eliberis. The canon ^m orders, that if any bishop, out of ambition or covetousness, procure himself to be removed from a lesser city to a greater, without the approbation of a synod, he shall not be admitted even to lay-communication at his last hour. So that if this were Novatianism, there is no apology to be made for this Council, no more than for that of Eliberis; the decrees of both Councils being the very same, and of equal severity toward extraordinary offenders. The Novatians indeed sometimes laid hold of this practice in the Church, as a handle to justify their own unwarrantable proceedings against all great sins committed after baptism: they said, they only treated the laity as the Catholics did the clergy, whom for several crimes they debarred from all communion to the very last. For so Socratesⁿ tells us, Asclepiades the Novatian bishop argued with Atticus, bishop of Constantinople: when Atticus acknowledged, that communion might reasonably be denied even at the point of death to such as sacrificed to idols, and that he himself had sometimes done so; Asclepiades replied, “There are many other sins unto death, as the Scripture calls them, besides sacrificing to idols, for which ye shut the clergy out of the Church, and we the laity remitting them over to God alone for their pardon.”

^m Concil. Sardic. can. ii. Μηδὲ ἐν τῷ τέλει λαϊκῆς γοῦν ἀξιοῦσθαι κοινωνίας. (Labbé, vol. ii. p. 628.)

ⁿ Socrat. lib. vii. c. xxv. (Vales. 1700. p. 299. D 6.) Ὁ Ἀσκληπιάδης, ἐκτός, ἔφη, τοῦ ἐπιθῆσαι, καὶ ἄλλαι πολλαὶ κατὰ τὰς γραφὰς εἰσὶν ἁμαρτίαι πρὸς θάνατον, δι’ ἃς ὑμεῖς μὲν πρὸς τοὺς κληρικοὺς, ἡμεῖς δὲ καὶ τοὺς λαϊκοὺς ἀποκλείομεν, Θεῷ μόνῳ τὴν συγχώρησιν αὐτῶν ἐπιτρέποντες.

SECT. V.—*How this may be vindicated and cleared from the charge of Novatianism.*

But this was only a sophistical argument and false apology for the Novatian schism: which though it has imposed upon many learned men, and driven them to strange difficulties in explaining many of the ancient canons, and obliged them to put a forced and unnatural sense upon plain words, for fear they should seem to encourage the same error as Novatian held; yet the fallacy will easily be discerned by a right stating the matter, and setting things in a proper light before the reader. The question between the Church and the Novatians was not, whether communion at the hour of death might be denied to some sort of sinners; for in this they both agreed, and the practice of the Church in many cases was no less severe toward some great and flagrant crimes, or a complication of crimes, than was that of the Novatians, as evidently appears from what has been already discoursed:—but the question was about the ministerial power of absolution, or admitting penitent sinners to the peace and communion of the Church again, after they had lapsed or fallen into any great sin after baptism. The Novatians stiffly maintained that the Church had no such ministerial power of the keys committed to her; but that all such sinners were for ever to be excluded and kept out of her communion; and that if she admitted any of them again, her communion was polluted and profaned by their contagion: and upon this principle they made a separation from the Church, as infected by the communion of sinners. The Church, on the other hand, asserted her own just right and power, that by the commission of the keys from Christ, she had power to loose as well as bind; to receive penitents into the Church upon their reformation, as well as cast out flagitious men for their notorious transgressions: and though in some extraordinary cases, either where the crimes were very heinous and numerous, or where for want of time she could not have sufficient evidence of men's repentance, when they continued in their apostasy and impenitency till they were threatened by death, she sometimes suffered such men to go out of the world without reconciliation and communion; yet she did not this

for want of power to receive sinners into her communion, but because she judged it more proper to let her censures continue upon such to the very last, to be an example and terror to others. So that though the practice of the Church and the Novatians was in some cases the same, yet their principles were very different, and vastly wide of one another. The Novatians wholly denied this power to the Church, and made a schism upon it: the Church maintained her own just power, and used it with discretion, sometimes one way, and sometimes another, as she judged most expedient in her own wisdom for the benefit and edification of sinners, without dividing communion upon this point among the governors of the Church, whatever way they thought fit to practise. This is what Cyprian observes chiefly against Novatian^o in the case of admitting and not admitting adulterers to communion. "Some of our predecessors," says he, "in this province were of opinion, that peace was not to be granted to adulterers, and therefore they wholly shut the door of repentance against adultery; yet they did not depart from the college of their fellow-bishops upon this account, or break the unity of the Catholic Church by any obstinate stiffness in their censure; so as that because peace was granted by others to adulterers, therefore they who would not grant it, should make a separation from the Church. But the bond of concord remaining entire, and the mystical unity of the Catholic Church continuing undivided, every bishop managed and directed his own acts of discipline as he thought proper, being to give an account of his resolutions and management to the Lord." It appears from hence that the dispute between the Church and Novatians was not barely about practice, but about principles and the power of the Church, in the use and management of the keys of

^o Cyprian. Epist. lv. ad Antonian. (Oxon. 1682. p. 110.) (p. 247. fin. seq. edit. Fell. Amstelod. 1700.) Apud antecessores nostros, quidam de episcopis istic in provincia nostra dandam pacem mœchis non putaverunt, et in totum pœnitentiæ locum contra adulteria clausurunt; non tamen à coëpiscoporum suorum collegio recesserunt, aut catholicæ ecclesiæ unitatem vel duritiæ vel censuræ suæ obstinatione ruperunt; ut quia apud alios adulteris pax dabatur, qui non dabat, de ecclesia separaretur. Manente concordie vinculo et perseverante catholicæ ecclesiæ individuo sacramento, actum suum disponit et dirigit unusquisque episcopus, rationem propositi sui Domino redditurus.

discipline : and therefore though the Church sometime did the same thing that the Novatians did, in refusing communion to some sinners even at the point of death, yet she was no ways chargeable with Novatianism ; because she acted upon different views and principles, and only made use of her just power in a discretionary way, to extend or contract her censures, as she judged most expedient for the benefit and edification of the whole community, or any particular member of it. And thus, I find, many learned men, such as Albaspinæus,^p Bishop Beveridge,^q and Cardinal Bona,^r have accounted for this seeming difficulty in the Church's practice, which has so tortured the wits of other men for want of understanding wherein the true nature of the Novatian heresy consisted : some fancying, that the Fathers, in and before the Council of Eliberis, were downright Novatians ; others, that they allowed men reconciliation, and peace, and absolution, but only denied them the communion of the Eucharist at their last hour : whereas nothing can be plainer than that they denied them not only the communion, as it denotes the Eucharist, but all manner of ministerial reconciliation, pardon, absolution, and re-admission into the society of the faithful.

SECT. VI.—*This rigour abated in after ages without any reflection on the preceding practice.*

This rigour, indeed, was abated in the practice of the following ages, but without the least reflection on those that went before them : because they were sensible it was at the Church's

^p Albaspin. Observat. lib. ii. c. xxi. tot. (Helmest. 1672.)

^q Bevereg. Not. ad can. viii. Concil. Nic. p. 68. Neque enim Novatiani ea, quæ iis vulgo adscribitur, opinione fuerunt, ut istis qui lapsi sunt, aut graviora delicta admiserunt, nullam salutis a Domino consequendæ spem superesse existimarent. Namque ipsi eos ad pœnitentiam agendam sæpius hortari soliti fuerunt et admonere, ut se colligerent, et divinam indulgentiam supplices implorarent. Sed hoc tantum iis persuasum erat, et prædicatum, in ecclesiæ potestate non situm esse, ut quosvis post baptismum (quod unicum pœnitentiæ genus statuerunt) delinquentes ad fidelium communionem admitteret.

^r Bon. Rer. Liturgic. lib. i. c. xvii. n. iii. (Antverp. 1677. p. 399.) Quum Novatiani perperam adsererent, non esse in ecclesia potestatem peccata post baptismum dimittendi, in quo, teste Paciano, eorum hæresis sita erat, non quod simpliciter negarent Lapsis pœnitentiam, etc.

liberty to order this part of discipline according to her own prudence, and act as the circumstances of times and the state of affairs required; judging the times of peace to be different from times of persecution, and that some abatement was to be made in this matter, when all the world was become Christian. The later Councils therefore are not so stiff in requiring the execution of the ancient canons in this particular, but allow every penitent communion at their last hour; though they would not undertake to assure them what effect an absolution in such extremity should have before God. The canons are very numerous upon this head: it will be sufficient to mention one or two as a specimen of all the rest. The Council of Agde^s speaks in general terms without exception: No penitents are to be denied their viaticum, or provision for their journey, at the point of death.—The first Council of Orange as universally making no distinction: Whoever^t accept of penance, when they depart from the body, let them be received to communion; but without the solemn imposition of hands, which is only to be given them, if they recover, upon performing their just penance in the Church.—The fourth Council of Carthage^u orders, that they shall have both the solemn imposition of hands, and the eucharist also, even though they had lost their senses or were struck dumb with their disease, if any about them could testify that they desired penance in their sickness.—And this was agreeable to the rule made in the great Council of Nice,^x that no one at the point of death should

^s Concil. Agath. c. xv. (Labbé, vol. iv. p. 1386.) Viaticum omnibus in morte positus non negandum.

^t Concil. Arausic. I. c. iii. (Labbé, vol. iii. p. 1448.) Qui recedunt de corpore, pœnitentia accepta, placuit, sine reconciliatoria manus impositione communicari, quod morientis sufficit consolationi, secundum definitiones patrum, qui hujusmodi communionem congruenter 'viaticum' nominarunt. Quod si supervixerint, stent in ordine pœnitentium, et ostensis necessariis pœnitentiæ fructibus, legitimam communionem cum reconciliatoria manus impositione percipiant.

^u Concil. Carthag. iv. c. lxxvi. (Labbé, vol. ii. p. 1205.) Qui pœnitentiam in infirmitate petit, si casu, dum ad eum sacerdos invitatus venit, oppressus infirmitate obmutuerit, vel in phrenesin versus fuerit, dent testimonium, qui eum audierunt, et accipiat pœnitentiam. Et si continuo creditur moriturus, reconcilietur per manus impositionem, et infundatur ori ejus eucharistia.

^x Concil. Nicæn. c. xiii. (Labbé, vol. ii. p. 36.) Εἰ τις ἐξοδεύει, τοῦ τελευταίου καὶ ἀναγκαίου ἐφοδίου μὴ ἀποστερεῖσθαι.

be deprived of his final and most necessary viaticum, the eucharist or oblation; as it is explained in the close of the canon, where the bishop is made judge of his repentance. Upon this ground Synesius^y says, He never let any one go out of the world bound with the bonds of anathema, if they desired absolution: only if they recovered, he reserved them to the disposition of his metropolitan of Alexandria.—And this confirms the remark made in general by Pope Innocent^z upon the different practices of the Church in times of persecution and times of peace: ‘The former observation was more severe, the latter more indulgent.’ In ancient times many sinners were denied communion at the hour of death: but in his time they granted penance to all, and admitted them to communion upon a death-bed repentance. Only they did not think this so safe, as the performance of as regular penance in their lifetime: and therefore they would not pronounce any thing confidently of their condition. There goes an ancient homily under the name of St. Austin, and it is also attributed to St. Ambrose, where this matter is thus delivered: “If a man repents at his last hour, and is reconciled, and so dies, I am not^a secure that this man goes hence securely: I can admit him to penance, but I can give him no security. Do I say, he shall be damned? I do not say it: but neither do I say he shall be saved. What

^y Synes. epist. lxvii. ad Theophil. p. 252. (p. 215, b. edit. Paris. 1633.) Μηδεὶς ἀποθάνει δεδεμένος ἐμοί· ἀναρρυσθεὶς δὲ, πάλιν ἐπὶ τοῖς αὐτοῖς ὑπόδικος ἔστω, καὶ παρὰ τῆς θεσπεσίας σου, καὶ φιλανθρώπου ψυχῆς περιμενέτω τῆς συγγνώμης τὸ σύνθημα.

^z Innocent. Epist. iii. ad Exuperium, c. ii. vide supra § iv. sub litt. (n) p. 505. Observatio prior durior: posterior, interveniente misericordia, inclinatio. (Labbé, vol. ii. p. 1255. C 4.)

^a Aug. Homil. xli. ex l. tom. x. p. 194. (p. 525, 526, edit. Basil. 1569.) (Bened. 1700. vol. v. p. 1056. D 3.) Agens pœnitentiam et reconciliatus quum sanus est, et postea bene vivens, securus hinc exit. . . . Agens pœnitentiam ad ultimum et reconciliatus, si securus hinc exit, ego non sum securus. . . . Pœnitentiam dare possum, securitatem dare non possum. . . . Numquid dico, damnabitur? Non dico. Sed nec dico etiam, liberabitur? Et quid dicis mihi? Nescio; non præsumo, non promitto, nescio. Vis te de dubio liberare? vis quod incertum est, evadere? Age pœnitentiam dum sanus es, et invenerit te novissimus dies, curre ut reconcilieris: si sic agis, securus es. Quare securus es? Quia egisti pœnitentiam eo tempore, quo et peccare potuisti. Si autem tunc vis agere pœnitentiam ipsam, quando jam peccare non potes, peccata te dimiserunt, non tu illa.

then do I say? I know not, I presume not, I promise not. For I know not the will of God. Would you free yourself from all doubt, and avoid that which is uncertain? Repent whilst you are in health, and you will be secure when your last day finds you: because you repent in a time when you had power to sin: but if you then only begin to repent, when you can sin no longer, it is not so much you that forsake your sins, as your sins forsake you." By all this it plainly appears, that the Church used a liberty of discretion in treating sinners of the first rank, either with severity or tenderness, as she judged expedient for the ends of discipline, or the benefit and edification of the sinner.

SECT. VII.—*What liberty was allowed to Bishops in imposing Penance and exacting proper satisfaction of Sinners. Some Sinners allowed to do Penance twice.*

Indeed we may observe that a great latitude and liberty was allowed to bishops, who were the prime ministers of discipline, to render it more rigorous or easy, as they thought fit to regulate the exercise of it in their own discretion. For though it was necessary in general for sinners to demonstrate their repentance to the Church, in order to give her satisfaction, and gain themselves re-admission; yet the method of doing this was not so precisely prescribed, but that bishops had power to add to, or abate something in, the measures of it. Therefore though the general custom was to allow sinners to do public penance but once in the Church, yet there are some instances, in the most strict and primitive ages, of sinners being admitted twice to this privilege. For Irenæus^b says, 'Cerdon the heretic more than once made confession of his heresy:' which we are to understand of his doing penance twice for his errors by making a public recantation of them. Tertullian says the same of Valentinus and Marcion, that 'they were^c once and

^b Iren. lib. iii. c. iv. Κέρδων δὲ... εἰς τὴν ἐκκλησίαν ἰθὺν καὶ ἐξομολογούμενος, οὕτως διετέλεσε, ποτὲ μὲν λαθροδιδασκαλῶν, ποτὲ δὲ πάλιν ἐξομολογούμενος, ποτὲ δὲ ἐλεγχόμενος ἐφ' οἷς εἰδίδασκε κακῶς, καὶ ἀφιστάμενος τῆς τῶν ἀδελφῶν συνοδίας.

^c Tertull. de Præscript. c. xxx. (Paris. 1664. p. 212. C 2.) Ob inquietam semper eorum curiositatem, quam fratres quoque vitiabant, semel et iterum ejecti . . .

again cast out of the Church for their turbulent curiosity in corrupting the brethren, before they broke out into their last dissension, when they scattered the poison of their doctrines among the people. And yet after that Marcion did penance, and was to have been received into the communion of the Church again, upon condition that he should bring back those whom he had led into perdition; which he intended to do, but death prevented him.' It is noted also by Socrates^d concerning St. Chrysostom, that though a synod of bishops had decreed that lapsers should only be admitted once to do public penance, yet in his homilies he was used to tell men they should do it a thousand times, if occasion required, and be received to communion.—Which bold doctrine displeased many of his friends; and Sisinnius, the Novatian bishop, wrote a book against it. After this a Council was held at Constantinople an. 426 or 427, under another Sisinnius, the Catholic bishop, one of St. Chrysostom's successors, against the Massalian heretics; wherein it was decreed, that because they had often relapsed after doing penance, they should be admitted to do penance no more, though they made never so many solemn professions of repenting. The synodical epistle is recorded in Photius,^e from whence we learn that relapsers at this time were allowed to do penance again, though the Council thought fit to deny the Massalian heretics the privilege any longer, because they had so often abused it.

novissime in perpetuum discidium relegati, venena doctrinarum suarum disseminaverunt. Postmodum idem Marcion poenitentiam confessus, quum conditioni datæ sibi occurrit, ita pacem recepturus, si ceteros quos perditioni erudisset, ecclesiæ restitueret, morte præventus est.

^d Socrat. lib. vi. c. xxi. (Vales. 1700. p. 269. C.) Μιᾶς μετὰ τὸ βάπτισμα παρὰ τῆς συνόδου τῶν ἐπισκόπων μετανοίας τοῖς ἐπτακόσι δοθείσης, αὐτὸς ἀπετόλμησεν εἰπεῖν, χιλιάκις μετανοήσας εἰσελθεῖ ἐφ' ᾗ διδασκαλίᾳ πολλοὶ μὲν καὶ τῶν γνωρίμων αὐτοῦ κατέγνωσαν· μάλιστα δὲ Σισίννιος ὁ τῶν Ναυατιανῶν ἐπίσκοπος· ὃς καὶ λόγον ὑπεναντίον τοῦ λεχθέντος συνέγραψεν, καὶ γενναίως αὐτοῦ διὰ τοῦτο κατέδραμεν.

^e Phot. Biblioth. cod. lii. 'Ἐν ταύτῃ τῇ συνοδικῇ ἐπιστολῇ καὶ Νίων ἐπίσκοπος ἐξεφώνησεν, ὥς εἰ τις μετὰ τὸν ἀναθεματισμὸν φωραθῇ τῷ χρόνῳ, ἢ διὰ ῥημάτων, ἢ διὰ πραγμάτων, εἰς τὴν ὑποψίαν τῆς νόσου ταύτης ἐμπίπτων, μηκέτι λοιπὸν αὐτὸν χώραν ἔχειν, μὴ δ' ἂν μυριάκις ἐπαγγέλλεται τὴν τάξιν ἀναπληροῦν τῶν μετανοούντων.

SECT. VIII.—*Bishops had also power to moderate the term of Penance upon just occasion.*

Another instance of the power of bishops in this matter was the liberty which the canons themselves granted them to moderate the term of penance, and shorten it, if they observed any extraordinary degree of zeal and sedulity in any penitents, that might deserve their indulgence and commiseration. The Council of Nice, determining the term of penance for such as fell into idolatry,^f says, They shall be three years Hearers, and ten years Prostrators, before they were admitted to communicate in prayers with the people: but if any were more than ordinarily diligent in expressing their concern and tears, and bringing forth good works, the true fruits of repentance, it should be in the bishop's power to deal more gently and mildly with them, *φιλανθρωπότερόν τι περὶ αὐτῶν βουλευσασθαι*, and bring them to communicate in prayers sooner. The like order is given by the Council of Ancyra,^g that bishops shall have power, upon examination and trial of the penitent's manner of behaviour and conversion, either to show them favour by shortening the time of penance, or otherwise to add to it at his discretion, *ἢ φιλανθρωπεύεσθαι, ἢ πλείονα προστιθέναι χρόνον*. So St. Basil^h says, He that has the power of binding and loosing, may lessen the time of penance to a penitent that shows great contrition. And Chrysostom, in answer to some who complained of the length of penance, that it continued a year, or two, or three, says, "I require not the continuance of

^f Concil. Nic. can. xii. (Labbé, vol. ii. p. 36.) "Ὅσοι μὲν γὰρ φόβῳ, καὶ δάκρυσι, καὶ ὑπομονῇ, καὶ ἀγαθοεργίαις, τὴν ἐπιστροφὴν ἔργῳ καὶ οὐ σχήματι ἐπιδείκνυνται· οὗτοι πληρώσαντες τὸν χρόνον τὸν ὠρισμένον τῆς ἀκροάσεως, εἰκότως τῶν εὐχῶν κοινωνήσουσι, μετὰ τοῦ ἐξείναι τῷ ἐπισκόπῳ καὶ φιλανθρωπότερόν τι περὶ αὐτῶν βουλευσασθαι.

^g Concil. Ancyran. c. v. (Labbé, vol. i. p. 1457.) Τοὺς δὲ ἐπισκόπους ἐξουσίαν ἔχειν τὸν τρόπον τῆς ἐπιστροφῆς δοκιμάσαντας φιλανθρωπεύεσθαι, ἢ πλείονα προστιθέναι χρόνον, πρὸ πάντων δὲ καὶ ὁ προάγων βίως, καὶ ὁ μετὰ ταῦτα, ἐξεταζέσθω καὶ οὕτως ἡ φιλανθρωπία ἐπιμετρεῖσθω.

^h Basil. can. lxxiv. (Labbé, vol. ii. p. 1753.) Ὁ πιστευθεὶς παρὰ τῆς τοῦ Θεοῦ φιλανθρωπίας λύειν καὶ δεσμεῖν, εἰ φιλανθρωπότερος γένοιτο, τὸ ὑπερβάλλον τῆς ἐξομολογήσεως ὁρῶν τοῦ ἡμαρτηκότος, εἰς τὸ ἐλαττώσαι τὸν χρόνον τῶν ἐπιτιμιῶν, οὐκ ἔστι καταγνώσεως ἄξιος, κ. τ. λ.

time,¹ but the correction of the soul. Demonstrate your contrition, demonstrate your reformation, and all is done." The Council of Lerida very expressly: "Let it remain^k in the power of the bishop either to shorten the suspension of the truly contrite, or to segregate the negligent a longer time from the body of the Church." And the great Council of Chalcedon¹ leaves it entirely in the hands of every bishop in his respective Church, to show favour to such penitents at his own discretion.

SECT. IX.—*And this was the true ancient notion of an Indulgence.*

And this is what some of the ancients call an indulgence; which was not heretofore any pretended power of delivering souls from the pains of purgatory, by virtue of a stock of merits, or works of supererogation, which they of the Church of Rome call now the Church's treasure, of which the Pope is become the sole dispenser: but anciently an indulgence was no more than this power which every bishop had, of moderating the canonical punishments, which in a course of penance were inflicted upon sinners: so that if the bishop saw any one to be a zealous and earnest penitent, he had liberty to shorten the time of his penance, that is, grant him a relaxation of some of his penitential exercises, and admit him sooner than others to communion. This was the true ancient notion of an indulgence. And that it was so, we may learn from one of the epistles of pope Vigilius, who writing to a certain bishop concerning some persons who were under penance for suffering themselves to be re-baptized by the Arians, he tells him,^m

¹ Chrysost. Homil. xiv. in 2 Cor. p. 846. (p. 644, edit. Francof.) Οὐ τοῦτο ζητῶ χρόνον πλῆθος, ἀλλὰ ψυχῆς διόρθωσιν τοῦτο τοῖνυν ἐπιδείκνυ, εἰ κατενόησαν, εἰ μετεβάλλοντο, καὶ τὸ πᾶν γέγονεν.

^k Concil. Ilerdens. can. v. (Labbé, vol. iv. p. 1612.) Maneat in potestate pontificis, vel veraciter adflictos non diu suspendere, vel desidiosos prolixiore tempore ab ecclesiæ corpore segregare.

¹ Concil. Chalced. can. xvi. (Labbé, vol. iv. p. 763.) Ὁρίσαμεν δὲ ἔχειν τὴν ἀσθεντίαν τῆς ἐπ' αὐτοῖς φιλανθρωπίας τὸν κατὰ τόπον ἐπίσκοπον.—See Martin. Bracar. Capitula Græc. Can. cap. lxxx. Conversatio et fides pœnitentis compendiat tempus. (Labbé, vol. v. p. 914.)

^m Vigil. epist. ii. ad Eleuther. cap. iii. (Labbé, vol. v. p. 312. E 9.) In æsti-

that "it was left to his own judgment, and the judgment of other bishops in their respective dioceses, if they approved the quality and devotion of any penitents, to grant them the benefit of an indulgence, that is, a relaxation of their penitential exercises, or a speedier admission to communion."

SECT. X.—*Which was sometimes granted at the intercession of the Martyrs, or the instance of the civil magistrate.*

And this was sometimes granted at the intercession of the martyrs in prison, of which there are several examples in Cyprian; and sometimes at the instance of the civil magistrate. For St. Austin tells us,ⁿ that as bishops were used to intercede for criminals in the civil courts, so the magistrates sometimes interceded for penitents in the ecclesiastical. And he uses this as an argument to a certain magistrate to induce him to show mercy to an offender. "If you have liberty to intercede with us for the mitigation of an ecclesiastical censure, why may not the bishop intercede against your sword, when our sword is only drawn to make the man live better, but yours that he may not live at all?" This sort of indulgences therefore had no respect to the punishments of the next world, but only to the mitigation of ecclesiastical punishment in this: which is ingenuously acknowledged by Cassander^o and several other learned Romanists, some of which

matione fraternitatis tuæ aliorumque pontificum per suas dioceses relinquatur, ut si qualitas et pœnitentis devotio fuerit approbata, indulgentiæ quoque remedio sit vicina.

ⁿ August. Epist. liv. ad Macedonium, p. 93. (tom. ii. Opp. p. 243. c. edit. Basil. 1569.) (Bened. 1700. vol. ii. p. 400. D 7.) Si vobis fas est ecclesiasticam correptionem intercedendo mitigare, quomodo episcopus vestro gladio non debet intercedere, quum illa exseratur, ut, in quem exseritur bene vivat, iste ne vivat!

^o Cassand. Consultat. artic. xii. p. 103. (In oper. p. 949, edit. Paris. 1616.) Ex hoc ritu canonicarum pœnarum, quæ publice pœnitentibus ad certi temporis præscriptum imponebantur, natæ sunt indulgentiæ. Fas enim erat episcopis, animadversa vel diligentia vel impotentia, et infirmitate pœnitentiæ, humanius et mitius cum illo agere, et de tempore illo et rigore pœnarum aliquid detrachere et imminuere: quæ pœnarum canonicarum imminutio et relaxatio, 'indulgentia' dicebatur; quæ hodie ad privatas quoque satisfactiones traducta est, et ab episcopis ad solum pontificem Romanum plenum indulgentiarum tribuendarum jus delatum, circa quarum usum et praxin optimi quique correctionem et

have undergone the censures of the Roman inquisitors for their over-liberal concessions. Particularly Polydore Virgil is put into the 'Index Expurgatorius'^p for saying 'that the use of indulgences is no older than the time of Gregory the Great:' and Franciscus Polygranus,^q for asserting, that 'every bishop of divine right has the power to grant indulgences;' with some assertions of the like nature, which agree very well with the true ancient notion of an indulgence, as it has been now explained, but will not comport with the pope's sole claim and pretence to this power, or any other innovations in the modern practice. But this only by the way: I now return to the ancient Church.

moderationem fieri desiderarunt, ut quæ, parum dextre tractata, hujus dilacerationis ecclesiæ præcipuam occasionem dedere.——Joan. Roffens. contr. Luther. art. xviii. (p. 314, edit. Argentin. 1524.) Neque tam necessaria fuit sive purgatorii seu indulgentiarum fides in primitiva ecclesia atque nunc est. Nam tunc usque adeo caritas ardebat, ut paratissimi fuerint singuli pro Christo mortem oppetere. Rara fuerunt crimina, et ea quæ contigerunt, magna fuerunt canonum severitate vindicata. Nunc autem bona pars populi magis Christianismum exueret, quam rigorem canonum pateretur; ut non absque maxima Sancti Spiritus dispensatione factum sit, quod, post tot annorum curricula, purgatorii fides et indulgentiarum usus ab orthodoxis generatim sit receptus, etc.——Polydor. Virgil. de Inventor. Rerum, lib. viii. c. i. Gregorius certos dies constituit, quibus in præcipuis urbis templis solemniter ritu sacrificaretur, ibique pro illo sedando malo (peste videlicet) oraretur suppliciter: ac ut populus generatim simul frequentior eo illis statis diebus concurreret, proposuit delictorum veniam ad id solemne accedentibus, constitutis ad ipsa templa sacerdotibus, qui audirent volentes de peccatis suis confiteri, ut illi inde remissionem omnium delictorum consequerentur. Quæ sane consuetudo vel hodie servatur, ubicumque publica peccatorum venia promittitur. Et quia sacerdos potestatem habet tam culpam quam poenam tollendi, hinc factum videtur, ut talis venia delictorum vulgo appelletur 'indulgentia,' id est, remissio culpæ et poenæ.——Alphons. a Castro advers. Hæres. lib. viii. p. 572. (fol. cxlii. edit. Colon. 1539.) Tunc magis fervebat Christianorum caritas, ut parum esset opus indulgentiis; plures anhelabant ad martyrium; pauca erant hominum scelera, et si quod erat, gravissima canonum punitione emendabatur: heic in præsentī vita satis facere volebant; nihil volebant in futurum puniendum relinquere, quapropter non est mentio ulla indulgentiarum.

^p Index Libror. Prohibitor. ex Expurgand. p. 853. Madrit. 1667. (p. 182, edit. Argentorat. 1609.) In indice rerum illa delenda: 'indulgentiæ quo tempore frequentari cœperint.' Indulgentias delictorum quis primo proposuerit, del. 'primo.'

^q Index Expurg. p. 97. Salmur. 1601. Ex Fr. Polygrani assertionibus quorundam ecclesiæ dogmatum fol. 68. deleatur glossa marginalis, quæ ait, 'de jure divino quilibet sacerdos posset dare indulgentias.'

SECT. XI.—*Bishops had also power to alter the nature of the Penalty in some measure, as well as the term of it.*

Where we may observe further, that bishops had power to grant indulgence not only by contracting the term of penance, but also in some measure by altering or lessening the nature and quality of the punishment itself. Of which we have a plain evidence in the Council of Ancyra;^r where in the case of deacons who lapsed into idolatry, and afterwards recovering stood firm in a second engagement, it is ordered, that they may retain the honour of deacons, but not any part of their sacred service, either in ministering the bread or the cup, or in performing the office of the public directors in the Church: yet the bishops should have power, if they found them very diligent, humble, and meek, to grant them more or less of their office, as they judged convenient. Which shows, that a great deal in this whole matter was left to the bishop's discretion, to make the exercise of penance more or less severe, as well in the degrees of punishment, as in point of time, according to the disposition and behaviour of the repenting sinner.

SECT. XII.—*What the Ancients mean by the term 'Legitima Pœnitentia.'*

And this explains to us a term or phrase which often occurs in the writings of the ancients, especially in Cyprian^s and the Council of Eliberis,^t and where they require that penitents

^r Concil. Ancyran. c. ii. (Labbé, vol. i. p. 1456.) Διακόνους θύσαντας, μετὰ δὲ ταῦτα ἀναπαλαίσαντας, τὴν μὲν ἄλλην τιμὴν ἔχειν, πεπαύσθαι δὲ αὐτοὺς πάσης τῆς ἱερᾶς λειτουργίας, τῆς τε τοῦ ἄρτον ἢ ποτήριον ἀναφέρειν, ἢ κηρύσσειν· εἰ μὲν τοι τινὲς τῶν ἐπισκόπων τούτοις συνίδουιν κάματόν τινα ἢ ταπεινώσειν πρόφρητος, καὶ ἐθέλουιν πλεῖον τι διδόναι ἢ ἀφαιρεῖν, ἐπ' αὐτοῖς εἶναι τὴν ἐξουσίαν.

^s Cyprian. Epist. liv. al. lvii. ad Cornel. (Oxon. 1682. p. 116.) (p. 252, edit. Fell. Amstelod. 1700.) Statueramus . . . ut qui in persecutionis infestatione supplantati ab adversario et lapsi fuissent, et sacrificiis se illicitis maculassent, agerent diu pœnitentiam plenam, etc. Epist. lv. ad Antonian. p. 108. (p. 246, edit. cit.) Neque præjudicamus Domino judicature, quo minus, si pœnitentiam plenam et justam peccatoris invenerit, tunc ratum faciat quod a nobis fuerit hic statutum.

^t Concil. Illiberritan. c. iii. (Labbé, vol. i. p. 971.) Placuit in fine eis præstari communionem, acta tamen legitima pœnitentia. Can. v. Post quin-

should perform 'Pœnitentiam legitimam, plenam, et justam,' a legal, full, and just penance. Some understand by this, that they should fulfil the whole term or time of penance prescribed by the canons; others, that they should not only fulfil the time, but regularly go through all the several degrees of penance, as Mourners, Hearers, Prostrators, and Co-standers, before they were received to communion. But neither of these hit the true meaning of this ancient phrase, which respects neither the time of penance, nor the orders of penitents, but the mind and qualifications of men acting sincerely and *bonâ fide* in their repentance; and expressing their hearty sorrow for sin by weeping, and mourning, and fasting, and almsdeeds, and charity, and an entire reformation; which are proper indications of a penitent mind, and such as might incline the bishop to show them some favour and indulgence, by shortening the time of their penance, notwithstanding which it might be called a just and full repentance, as Albaspinæus^u rightly explains it.

SECT. XIII.—*What meant by the phrase 'inter Hyemantes orare.'*

There is one phrase more occurring in some of the ancient canons, which may need a little explication in this place, because it relates to the severity of the ancient discipline, which we are now considering. The Council of Ancyra, speaking of those who commit uncleanness with beasts,* or draw others into the same sin, (being spiritual lepers, and infecting others

quennii tempora, acta legitima pœnitentia, ad communionem placuit admitti. Vide etiam can. xiv. lxxii. lxxvi.

^u Albaspin. Observat. lib. ii. c. xxx. tot. (Helmeſtad. 1672. p. 248.) Item not. in can. iii. Conc. Illiberit. (p. 290.) Ut pœnitentia censeretur legitima, non satis erat explere tempus constitutum ab episcopo, ut volunt Garsias et Binius, sed ea legitima vocabatur, quam bona fide ducebant pœnitentes, et cum domi, et in ecclesia, noctu et interdiu, perpetuis ærumnis sese exercerent, et lacrimis, fletibus, et multis præterea signis animi dolorem clam et publice testarentur. Illegitima autem dicebatur, quando pœnitentes languidius eam subirent, et parum dolerent de peccatis, quamvis præscriptum tempus explerent.

* Concil. Ancy. c. xvii. (Labbé, vol. i. p. 1462.) Τοὺς ἀλογευσαμένους καὶ λεπρῶς ὄντας, ἥτοι λεπρώσαντας, τοὺτους προσέταξεν ἡ ἀγία σύνοδος εἰς τοὺς χεῖμαζομένους εὐχέσθαι.

with their contagion,) says, they shall pray with the *χειμαζόμενοι*, or Hyemantes; which denotes some extraordinary punishment, but of what sort is not very easy to determine, because learned men are not well agreed what the word *χειμαζόμενοι* properly means. The old translators of the Greek canons commonly understand it of Energumens or demoniacs, such as were vexed with unclean spirits, and, as it were, tossed by them in a tempest. Dionysius Exiguus renders it, 'Qui spiritu periclitantur immundo,' vexed with an unclean spirit: the other translation of Isidorus Mercator has it, 'Qui tempestate jactantur, qui a nobis Energumeni intelliguntur:' those that are tossed in a tempest, by whom we understand Energumens. And Martin Bracarensis, in his collection of the Greek canons,^y renders it 'Dæmoniosos,' demoniacs. And that which gives some probability to this interpretation is, that the word *χειμαζόμενοι* is so used and expounded by many Greek writers. In the prayer for the whole state of the Church, and all orders in it, related by the author of the Constitutions,^z there is one petition, *ὑπὲρ τῶν χειμαζομένων ὑπὸ τοῦ ἀλλοτρίου*, 'for those who are tossed by the enemy,' that is, Energumens vexed with the evil spirit. And so Cyril^a of Alexandria uses the same phrase for those that were possessed with a wicked spirit. As also the ancient commentators, Maximus^b upon Dionysius, and Alexius Aristinus upon the canons,^c and the modern Greeks in their Euchologium,^d where there is a prayer for the *χειμαζόμενοι ὑπὸ πνευμάτων ἀκαθάρτων*, 'for those that are tossed or tormented with unclean spirits.' Upon the credit of

^y Martin. Bracar. Collect. Canon. can. lxxxi. Oportet tales inter dæmoniosos [orare] ordinare. (Labbé, vol. v. p. 914.)

^z Constitut. lib. viii. c. xii. (Labbé, vol. i. p. 481. E 3.) "Ἐπι παρακαλοῦμέν σε καὶ ὑπὲρ τῶν κατηχουμένων τῆς ἐκκλησίας, καὶ ὑπὲρ τῶν χειμαζομένων ὑπὸ τοῦ ἀλλοτρίου.

^a Cyrill. in Iesa. xlii. p. 544. *χειμαζόμενοι ὑπὸ πνεύματος πονηροῦ*.

^b Maxim. in Dionys. Hierarch. Eccles. c. vi. (p. 393, edit. Antwerp. 1634.) *Τῶν χειμαζομένων καὶ ἐνεργουμένων*.

^c Alex. Aristin. in can. xvii. Concil. Ancyr. (ap. Bevereg. p. 394.) *Χειμαζόμενοι δὲ εἰσι κατὰ τὸν μέγαν Διονύσιον, οἱ ὑπὸ πνεύματος πονηροῦ κατεχόμενοι*.

^d Eucholog. Goar. p. 724. *Ὑπὲρ ἀσθενῶν χειμαζομένων ὑπὸ πνευμάτων ἀκαθάρτων καὶ ἐπιρραζόντων*.

which authorities Bishop Beveridge concludes,^e that praying among the *χειμαζόμενοι*, or Hyemantes, in the Council of Ancyra denotes the penitents praying among the Energumens, or those that were vexed with unclean spirits. And so Osiander in his notes upon the Council of Ancyra,^f and Mr. Dodwell^g in his observations upon Cyprian, who thinks the word ‘Clidomeni,’ in one of Cyprian’s epistles, is but a corruption from Clydonizomeni, *κλυδωνιζόμενοι*, which is of the same import and signification with *χειμαζόμενοι*, denoting what the Latins call Maniaci and Lymphatici, persons possessed by an evil spirit, as he shows out of some passages of Amphilochius^h and St. Chrysostom, which support his conjecture. Other learned men think the *χειμαζόμενοι*, or Hyemantes, were such penitents, as for the monstrous greatness of their crimes were not only expelled out of the communion of the Church, but cast out of the very Atrium or courts and porch of the Church, and put to do penance in the open air, where they stood exposed to the inclemency of all weathers whatsoever. This opinion is embraced and defended by Albaspinæus,ⁱ Cardinal

^e Bevereg. not. in can. xi. Concil. Nicæn. n. iv. p. 72. tot.

^f Collect. Canonum, Wittebergæ, 1614. 4to.

^g Dodwell. dissert. i. in Cyprian. p. 4. (p. 7, edit. Fell. Amstelod. 1700.) Propius ad MSS. fidem accedet, si (pro ‘clidomeni’) ‘clydonizomeni’ legamus, et de energumenis sive maniacis intelligamus, qui ‘lymphatici’ Latinis, *χειμαζόμενοι* Græcis quoque patribus audiunt. Idem enim valet primaria quoque significatione *χειμαζόμενοι* quod *κλυδωνιζόμενοι*.

^h Amphiloch. Homil. de Pœnitent. ap. Combefis. p. 97. Προσερχόμενοι γὰρ τοῖς μάντεσι, καὶ τοῖς κλυδωνιζομένοις, καὶ τοῖς μάγοις, καὶ φαρμάκοις, ἐξαιτοῦνται καὶ κατὰ ἀνθρώπων δαίμονας. — Chrysost. orat. i. ad Stagyrum, tom. iv. edit. Savil. p. 85. line 29. Σαυτὸν δὲ ἐν χαλεπωτάτῳ κλύδωνι κείμενοι ἔτι, etc.

ⁱ Albaspin. Observat. in can. xvii. Conc. Ancyran. (Helmestad. 1672. p. 369.) Qui ob gravia delicta, verbi gratia, fornicationis aut adulterii, pœnitentiam agebant, aut eam petebant; certum est sub quodam tectulo pro templi foribus eos ritus pœnitentiæ, et exomologesim peregissee, id est, presbyteris advolutos, caris Dei et martyribus adgeniculatos, veniam deprecatos esse; ceteros denique fratres, ut sibi deprecatores essent, orasse: verum qui graviora delicta, ut sunt ea, quæ hisce canonibus commemorantur, commiserant, quique perpetuam agebant pœnitentiam, non solum ab ecclesia, sed ab illo tectulo arcebantur, quos hic ‘hiemantes’ vocari existimo, et inter eos, hos impudicos leprosos orare juberi. Hiemantes autem dici videntur, vel quia ab hoc tectulo semoti, sub dio orare et pœnitentiam agere cogerentur, vel certe quia in ecclesiæ portum numquam reciperentur, ut ait Balsamo.

Bona,^k and Suicerus.^l And there is a passage in Tertullian, which makes this explication look very natural. For speaking of the ancient discipline, and distinguishing the degrees and malignity of heinous offences, he says, 'There were some impious^m furies of lust, so far transgressing all the laws of nature, both with respect to bodies and sex, that they did not only expel them from the doors of the Church, but from any covered place belonging to it, as being monsters rather than common vices.' Either of these opinions, as having each their reasons and probability to support them, may be admitted. But the opinion of Balzamon here is little worth, who makes the 'Hyemantes' to be no more than the second class of penitents called Hearers: this does by no means show any special

^k Bon. Rer. Liturgic. lib. i. cap. xvii. num. v. (Antverp. 1677. p. 400.) Synodus Ancyrana, (can. xvii.) leprosos, et eos qui cum brutis rem habuerunt, inter Hiemantes orare præcepit. At qui fuerint isti, dubiæ quæstionis est. Quidam putant fuisse Arreptitios, quos S. Maximus (in scholiis ad cap. vi. Eccles. Hier.) ita vocari arbitratur, quod veluti tempestatibus agitati in continua quasi hieme versarentur. Horum vero sententiam reprobatur Zonaras, in notis ad citatum canonem Ancyranum: 'Sed qui sint,' inquit, 'haud facile dixerim.' Alii collocant eos in primo ordine pœnitentium, nullumque agnoscunt discrimen inter Hiemantes et Lugentes. Quibusdam magis placet Hiemantium nomine illos intelligi, qui sub dio extra omne ecclesiæ tectum manebant, cujusmodi erant majori excommunicatione percussi, ab ecclesia prorsus præcisi: quo etiam in loco, procul scilicet a porticu, jussi sunt stare leprosi, ne ceteros inficerent; et qui cum brutis atque contra naturam luxuriabantur, quos monstra, portenta, et furias nuncupabant. Horum autem conjecturam ideo censeo probabiliorē, quod illi favere videatur Tertullianus (lib. de Pudicitia), apud quem aliud est limine ecclesiæ, aliud toto tecto submoveri. See note (m) below.

^l Suicer. Thesaur. Eccles. voce *χειμαζόμενοι*. (Amstel. 1682. p. 1508.) Alii *χειμαζόμενοι* eos esse dicunt, qui pro templi foribus, sub dio, orare, et pœnitentiam agere cogebantur. Qui ob gravia delicta, ut est fornicatio aut adulterium, pœnitentiam agebant aut eam petebant, sub quodam tecto pro templi foribus eos pœnitentiæ ritus et exomologesin peragebant, id est, presbyteris adolvebantur, caris Dei adgeniculabantur, veniam deprecabantur, ceteros denique fratres, ut sibi deprecatores essent, orabant. Verum qui graviora delicta, ut sunt quæ hoc canonē commemorantur, commiserant, quique perpetuam agerent pœnitentiam, non solum ab ecclesia, sed ab illo etiam tecto arcebantur, qui heic *χειμαζόμενοι* videntur appellari. Tertulliani verba de Pudicitia, cap. iv. extremo: 'Reliquas,' etc. [See the following note (m).] Atque hæc verissima videtur esse sententia.

^m Tertull. de Pudicit. c. iv. (Paris. 1664. p. 557. B 9.) Reliquas autem libidinum furias impias et in corpora et in sexus ultra jura naturæ, non modo limine, verum omni ecclesiæ tecto submovemus, quia non sunt delicta, sed monstra.

severity against such enormous sins, assigning them only a common punishment with the rest. But if we suppose those who were guilty of them either to be ranked among Demoniacs, or wholly to be kept out of the Church, we have some proper idea of the Church's severity against them ; for which reason I have purposely mentioned it in this place, where we have been discoursing of the strictness and severity of the ancient discipline, which is the last thing considerable in the exercise of it, whilst men were under the bonds and fetters of excommunication. The next thing is to see how they were loosed from these bonds, when their penance was completed. And this brings us to the business of absolution, or the method of re-admitting penitents into the communion of the Church again ; which must be the subject of the next book.

BOOK XIX.

OF ABSOLUTION, OR THE MANNER OF RE-ADMITTING PENITENTS INTO THE COMMUNION OF THE CHURCH AGAIN.

CHAPTER I.

OF THE NATURE OF ABSOLUTION, AND THE SEVERAL SORTS OF IT ; MORE PARTICULARLY OF SUCH AS RELATE TO THE PENITENTIAL DISCIPLINE OF THE CHURCH.

SECT. I.—*All Church-absolution only ministerial, not absolute.*

HAVING hitherto seen the exercise of penitential discipline in all the several parts of it, as it related to sinners under the bonds of excommunication ; we are now to consider it under another view, as it denotes their absolution from those bonds by the power of the keys, and the method of restoring or re-admitting penitents, when their penance was completed, to the communion of the Church again. And here, first of all, we are to observe, that the ancients challenged no power in this matter but that which was purely ministerial ; leaving the absolute, sovereign, independent, and irreversible power only to God. Of which I need give no other proof at present but only this, that they constantly made it an argument for our Saviour's divinity, that he had the sovereign power of forgiving sins ; which argument could have signified nothing, had men been equal sharers in this power with him. Thus Irenæus argues against some of the heretics in his own time : " Our Saviour," says ^a he, " in forgiving sins both cured the man,

^a Iren. lib. v. c. xvii. Christus, peccata remittens, hominem quidem curavit ; semetipsum autem manifeste ostendit, quis esset. Si enim nemo potest

and manifestly declared who he himself was. For if none can forgive sins but God alone, and our Lord did forgive them, and cure men; it is manifest that he was the Word of God, made the Son of man: and as he was man, he suffered with us and for us; as he is God, he shows mercy to us, and forgives us our debts, which we owe to God our Maker." The same argument is urged by Tertullian in his books against Marcion; ^b and by Novatian ^c against the Ebionites; and Athanasius ^d against the Arians: St. Basil ^e also uses it, as one of his strongest weapons against Eunomius; and the like is done by St. Hilary, ^f and St. Chrysostom, ^g and St. Jerom, ^h and Victor

remittere peccata, nisi solus Deus; remittebat autem hæc Dominus, et curabat homines: manifestum est, quoniam ipse erat verbum Dei, Filius hominis factus, a patre potestatem remissionis peccatorum accipiens, quoniam homo et quoniam Deus; ut, quomodo homo compassus est nobis, tamquam Deus misereatur nostri, et remittat nobis debita nostra, quæ factori nostro debemus Deo.

^b Tertull. contr. Marcion. lib. iv. c. x. (Paris. 1664. p. 421. D 6.) Quum Judæi solummodo hominem ejus intuentes, nec dum et Deum certi, qua Dei quoque filium, merito retractarent, non posse hominem delicta dimittere, sed Deum solum, cur non secundum intentionem eorum de homine eis responderet, Habere eum potestatem dimittendi delicta, quando et Filium hominis nominans, hominem nominaret? nisi quia ideo ipsa voluit eos appellatione Filii hominis ex instrumento Danielis percutere, ut ostenderet Deum et hominem, qui delicta dimitteret; illum scilicet solum Filium hominis apud Danielis prophetiam, consecutum judicandi potestatem, ac per eam utique et dimittendi delicta.

^c Novat. de Trinit. c. xiii. Quod si, quum nullius sit nisi Dei, peccata dimittere, idem Christus peccata dimittit . . . merito Deus est Christus.

^d Athan. Orat. iii. contr. Arianos. (p. 590. a. edit. Paris. 1698.) 'Ἀμαρτίας ἡσίει, λέγων τῷ παραλυτικῷ, καὶ τῇ τοῦ πόντος ἀλεψάσῃ γυναικί, 'Αφίονται σου αἱ ἀμαρτίαι· καὶ νεκρὸς μὲν ἤγειρε . . . καὶ ταῦτα ἐποίησεν, οὐ μέλλων, ἕως λάβῃ, ἀλλ' ἐξουσιαστῆς ὢν. — It. Epist. de Synodis (p. 763, edit. cit.) Περὶ μὲν τοῦ Θεοῦ φησὶν ὁ Ἡσαίας· Τίς Θεὸς, ὥσπερ σὺ, ἐξαίρων ἀνομίας, καὶ ὑπερβαίνων ἀδικίας· ὁ δὲ υἱὸς ἐλεγεν οἷς ἠθέλην, 'Αφίονται σοὶ αἱ ἀμαρτίαι, ὅτε καὶ τῶν Ἰουδαίων γογγυζόντων, ἔργῳ τὴν ἀφεσὶν εἰδείκνυε, λέγων τῷ παραλυτικῷ· Ἔγειραι, φρον τὸν κράββατόν σου, καὶ ὑπάγε εἰς τὸν οἶκόν σου.

^e Basil. contr. Eunom. lib. v. (tom. i. p. 781. A. Paris. 1638.) Εἰ τοίνυν οὐδενός ἐστιν ἀφίναί ἀμαρτίας, ὥσπερ οὐκ ἐστίν, εἰ μὴ μόνον Θεοῦ, ἀφήσει δὲ τὸ Πνεῦμα ἅγιον διὰ τῶν ἀποστόλων· Θεὸς ἄρα τὸ Πνεῦμα τὸ ἅγιον, καὶ τῆς αὐτῆς ἐνεργείας τῷ πατρὶ καὶ τῷ υἱῷ.

^f Hilar. Comment. in cap. viii. in Matth. (p. 646, edit. Paris. 1693.) (Venet. 1749. p. 548. C.) Movet scribas remissum ab homine peccatum: hominem enim tantum in Jesu Christo contuebantur. Et remissum est ab eo, quod lex laxare non poterat; fides enim sola justificat. Deinde murmurationem eorum Dominus intuspicit, dicitque facile esse Filio hominis in terra peccata dimittere.

of Antioch,¹ and Cyril of Alexandria,^k who all argue for our Saviour's divinity from this topic, that he had sovereign and absolute power upon earth to forgive sins. And St. Ambrose uses the same argument against the Macedonians¹ to prove the divinity of the Holy Ghost. I produce none of these testimonies at large here, both because they all speak the same thing, and are already produced in an excellent book of Bishop Usher's,^m which is common in every reader's hands: where he

Verum enim nemo potest dimittere peccata, nisi solus Deus: ergo qui remittit, Deus est. Quia nemo remittit nisi Deus, Deus in homine manens curationem homini præstabat.

^g Chrysost. Homil. xxix. al. xxx. in Matth. (p. 531, edit. Francof. 1697.) 'Εκείνοι μὲν ἔλεγον, ὅτι λύειν ἁμαρτήματα Θεοῦ μόνου ἐστίν· οὗτος γὰρ οὐ λύει μόνον ἁμαρτήματα, ἀλλὰ καὶ πρὸ τούτου ἕτερόν τι ἐπιδίδκνυται, ὃ Θεοῦ μόνου ἦν, τὸ δὲ ἐν [τῇ καρδίᾳ] ἀπόβρῃτα ἐκφέρειν.

^h Hieron. Commentar. in Matth. ix. (Venet. Villars. vol. vii. p. 49. A 8.) Legimus in propheta dicentem Deum: 'Ego sum, qui deleo iniquitates tuas.' Consequenter ergo scribæ, quia hominem putabant, et verba Dei non intelligebant, arguunt eum blasphemis. Sed Dominus videns cogitationes eorum, ostendit se Deum, qui possit cordis occulta cognoscere, et quodam modo tacens loquitur: 'Eadem majestate et potentia, qua cogitationes vestras intueor, possum et hominibus peccata dimittere.'

ⁱ Victor. in Marc. ii. (tom. iv. Biblioth. Patr. p. 374, h. edit. Lugdun. 1677.) Quorsum Servator, signum patraturus, præmittit, 'Ut autem sciatis, quia Filius hominis habet potestatem in terra dimittendi peccata?' Haud alia de causa istud facit, quam ut planum hinc fiat, divinitatis vim, propter indivulsam utriusque unionem, in humanam quoque naturam sese diffundere, etc.

^k Cyrill. Thesaur. lib. xii. c. iv. [Not. In editione Paris. 1638, quam ego habeo, et qua usus quoque est Binghamus, hic Thesaurus nec libros habet nec capita, adeoque falsa allegatio. Inveni autem locum commentar. in Joann. c. xx. 23. lib. xii. c. i. p. 1101. qui huc referri potest. Δοὺς δὲ τὸ Πνεῦμα Χριστός, ἂν τινῶν ἀφῇτε τὰς ἁμαρτίας, ἀφίωνται, φησίν· ἂν τινῶν κρατῇτε, κεκράτηνται· καίτοι μόνου τοῦ κατὰ φύσιν ὄντος Θεοῦ δυναμένου τε καὶ ἐξουσίαν ἔχοντος ἀπολύειν ἁμαρτίας τοὺς ἡμαρτηκότας· τίνι γὰρ ἂν καὶ προσῇκοι τὸ χαριζεσθαί τισι τὰ ἐφ' ὅσπερ ἂν ἀλοιεῖν εἰς τὸν θεῖον πλημμελήσαντες νόμον, εἰ μὴ τῷ τὸν νόμον ὀρίσαντι; Grischow.]

^l Ambros. de Spirit. Sanct. lib. iii. c. xviii. (Paris, 1836. vol. iv. p. 63.) Peccata nemo condonat, nisi unus Deus, quia æque scriptum est, 'Quis potest peccata donare, nisi solus Deus?' . . . Videamus, utrum peccata donet Spiritus. Sed hic dubitari non potest, quum ipse Dominus dixerit, 'Accipite Spiritum Sanctum: quorum remisistis peccata, remissa erunt,' etc.—Vide Augustin. Homil. xxiii. ex l. cap. vii. (tom. x. p. 469, edit. Basil. 1569.) (Bened. 1700. vol. v. p. 365. F.) Tenete, quia homo non potest peccata dimittere. Illa quæ sibi a Christo peccata dimitti credidit, Christum non hominem tantum, sed et Deum credidit.

^m Usher, Answer to the Jesuit's challenge, p. 79. etc.

also shows farther the general agreement of the ancients in this assertion, that none can forgive sins but God only, that is, with an absolute and sovereign power: and therefore the power of absolution in the Church is purely ministerial, and consists in the due exercise and application of those means, in the ordinary use of which God is pleased to remit sins: using the ministry of his servants, as stewards of his mysteries, in the external dispensation of them; but himself conferring the internal grace or gift of remission by the operation of his Spirit only upon the worthy receivers. These mysteries or means of grace, in the external dispensation of which the Church is concerned, and in the ordinary use of them remission of sins is conveyed, are usually by the ancients reckoned up under these five heads: 1. The absolution or great indulgence of baptism. 2. The absolution of the eucharist. 3. The absolution of the word and doctrine. 4. The absolution of imposition of hands and prayer. 5. The absolution of reconciliation to the Church and her communion by a relaxation of her censures. The two first may be called sacramental absolution; the third declaratory absolution; the fourth precatory absolution; the fifth judicial absolution: and all of them authoritative, so far as they are done by the ministerial authority and commission which Christ has given to his Church, to reconcile men to God by the exercise of such acts and means, as conduce to that end in a subordinate and ministerial way according to his appointment.

SECT. II.—*Of the grand Absolution of Baptism. That this was of no use in penitential Discipline to persons once baptized.*

But then all these sorts of absolution were not reckoned of equal concern in penitential discipline. For though baptism was always esteemed the most universal absolution, and grand indulgence in the ministry of the Church; as conveying a general pardon of sins to every true member of Christ, when he first entered into his mystical body by the laver of regeneration; yet this had no place in the exercise of penitential discipline. For no penitent was ever reconciled to the com-

munion of the Church (after any lapse, or censure, or penance done for it) by a second baptism. And yet the stewards of Christ's mysteries were always supposed to have the ministerial power of conveying remission of sins to men by the administration of baptism: and so far as they were entrusted with the administration of it, so far they had power to bind or loose; to admit the worthy into the Church, or keep the unworthy out of it; that is, in the ministerial way, to remit men's sins by admitting them to baptism, or retain their sins by keeping them from it, according to the rules of Christ's institution and appointment. The ancients, upon this account, commonly give baptism the name of indulgence, or remission of sins, or the sacrament of remission; as I have had occasion to show out of the Council of Carthageⁿ under Cyprian, and one of the Roman Councils mentioned by Cotelierius,^o and St. Austin,^p in a former book,^q where we treat more expressly of baptism. It is also observable, that the ancients commonly deduce this ministerial power of remitting sins in baptism from the same text, upon which the power of all other absolutions is founded, viz. Joh. xx. 23. "Whosoever sins ye remit, they are remitted unto them; and whosoever sins ye retain, they are retained." They say, this commission is executed by the ministers of Christ, as well in conferring baptism, as in reconciling of penitents, or any other way of ministerial absolution. Cyprian argues upon this foot against the baptism of heretics and schismatics, that baptism given by them is of no benefit to the receiver, because they are not of the number of those to whom Christ gave commission to remit sins, as not being endued with the Holy Spirit. "Seeing," says he,^r "that

ⁿ Concil. Carthag. ap. Cyprian. n. x. (Oxon. 1682. p. 234.) (p. 161, edit. Fell. Amstel. 1700.) See vol. iii. p. 397.

^o Concil. Roman. ap. Cotelier. in Constitut. Apostol. lib. iii. c. ix.

^p Augustin. de Baptism. lib. v. c. xxi. (Bened. 1700. vol. ix. p. 104.)

^q See vol. iii. p. 398.

^r Cyprian. Epist. lxxvi. al. lxix. ad Magnum. (Oxon. 1682. p. 185.) (p. 297, edit. Amstelod. 1700.) Quum in baptismo unicuique peccata sua remittantur, probat et declarat in suo evangelio Dominus, per eos solos posse peccata dimitti, qui habeant Spiritum Sanctum. Post resurrectionem enim discipulos suos mittens, loquitur ad eos et dicit, 'Sicut misit me Pater, et ego mitto vos. Hoc quum dixisset, insufflavit et ait illis: Accipite Spiritum Sanctum. Si cujus

remission of sins is granted to every man in baptism, the Lord in his Gospel declares and proves, that sins can only be remitted by them who have the Holy Spirit. For after his resurrection, when he sent forth his disciples, he said unto them, 'As my Father sent me, so send I you. And when he had said this, he breathed on them, saying, Receive ye the Holy Ghost. Whosoever sins ye remit, they are remitted unto them; and whosoever sins ye retain, they are retained.' In which place he shows that they only can baptize, and grant remission of sins, who have the Holy Ghost." So again in another epistle:^s "It is manifest both where and by whom that remission of sins is granted, which is granted in baptism. For the Lord first gave that power to Peter, that whatsoever he loosed on earth, should be loosed in heaven. And after his resurrection, he said to his disciples, 'Whosoever sins ye remit, they are remitted unto them; and whosoever sins ye retain, they are retained.' Whence we understand, that no other have power to baptize, and grant remission of sins, but they who are made rulers in the Church by the evangelical law and ordinance of the Lord." Firmilian also follows Cyprian^t in the same argument, proving from the same texts, that heretics have no power to remit sins in baptism, because

remiseritis peccata, remittentur illi: si cujus tenueritis, tenebuntur.' Quo in loco ostendit, eum solum posse baptizare, qui habeat Spiritum Sanctum.

^s Id. Epist. lxxiii. ad Jubaian. (Oxon. 1682. p. 201.) (p. 308, edit. cit.) Manifestum est, ubi et per quos remissa peccatorum dari possit, quæ in baptismo scilicet datur. Nam Petro primum Dominus . . . potestatem istam dedit, ut id solveretur in cœlis, quod ille solvisset in terris. Et post resurrectionem quoque ad apostolos loquitur, dicens: 'Sicut misit me Pater, et ego mitto vos. Hoc quum dixisset, inspiravit, et ait illis, Accipite Spiritum Sanctum: si cujus remiseritis peccata, remittentur illi: si cujus tenueritis, tenebuntur.' Unde intelligimus, non nisi in ecclesia Præpositis, et in evangelica lege ac Dominica ordinatione fundatis licere baptizare, et remissam peccatorum dare.

^t Firmilian. Epist. lxxv. ap. Cyprian. p. 224. (p. 324, edit. Amstelod.) Qualis error sit, et quanta sit cæcitas ejus, qui remissionem peccatorum dicit apud synagogas hæreticorum dari posse, nec permanet in fundamento unius ecclesiæ, quæ semel a Christo supra petram solidata est; hinc intelligi potest, quod soli Petro Christus dixerit: 'Quæcumque ligaveris,' etc.: et iterum in evangelio, quando in solos apostolos insufflavit Christus dicens, 'Accipite Spiritum Sanctum,' etc. Potestas erga peccatorum remittendorum apostolis data, est et ecclesiis quas illi a Christo missi constituerunt, et episcopis qui eis ordinatione vicaria successerunt.

they are not in the Church, nor of the number of those, to whom Christ gave that commission. Neither was it only Cyprian and Firmilian that thus asserted the power of remitting sins in baptism to belong to the ministers of Christ, but generally all other interpreters. Cyril of Alexandria,^u expounding those words of our Saviour, 'Whosoever sins ye remit,' &c., says, "Spiritual men remit or retain sins, as I conceive, two ways. For either they call those to baptism, who are worthy of it upon the account of a good life and approved faith; or else they forbid and repel those from the divine gift, who are unworthy of it. This is one way of remitting or retaining sin. Another way is, when they punish and correct the children of the Church offending, and pardon them again upon their repentance: as Paul delivered the Corinthian over to the destruction of the flesh, that the spirit might be saved; and afterward received him, that he might not be swallowed up of overmuch sorrow." St. Ambrose, in like manner, ascribes the power of remitting sins to the administration of baptism, as well as penance: and upon this ground^v he asks the Novatians, "Why do ye baptize, if sins cannot be remitted by the ministry of man? What is the difference, whether priests assume this power as given to them in the exercise of penance, or the administration of baptism?" Gaudentius^x says, "It is this key of the sacraments that opens

^u Cyril. lib. xii. in Joan. xx. 23. (tom. iv. p. 1101.) 'Αφιάσι γε μὴν ἀμαρτίας· ἡ τοι κατέχουσιν οἱ πνευματοφόροι, κατὰ δύο τρόπους, κατὰ γε διάνοιαν ἐμὴν· ἡ γὰρ καλοῦσιν ἐπὶ τὸ βάπτισμα τοὺς, οἷς ἂν ἤδη καὶ τοῦτον τυχεῖν ὠφέλιτο διὰ τὴν τοῦ βίου σεμνότητα, καὶ τὸ δεδοκιμασμένον εἰς πίστιν· ἡ διακωλύουσι τινὰς, καὶ τῆς θείας χάριτος ἐξείργουσιν ἔτι οὕτω τῶς γεγονότας ἀξίους· ἡ καὶ καθ' ἕτερον τρόπον ἀφιάσι τε καὶ κρατοῦσιν ἀμαρτίας, ἐπιτιμῶντες μὲν ἀμαρτάνουσι τοῖς τῆς ἐκκλησίας τέκνοις, μετανοοῦσι δὲ συγγινώσκοντες· καθάπερ ἀμέλει καὶ Παῦλος τὸν ἐν Κορίνθῳ πορνείσαντα παρεδίδου μὲν εἰς ὀλεθρον τῆς σαρκός, ἵνα τὸ πνεῦμα σωθῇ· προσέειπε δὲ αὐτῷ, ἵνα μὴ τῇ περισσοτέρᾳ λύπῃ καταποθῇ.

^v Ambros. de Pœnit. lib. i. c. viii. tom. i. p. 157. (tom. iv. p. 391, edit. Paris. 1642.) (Paris. 1836. vol. iv. p. 94.) Cur baptizatis, si per hominem peccata dimitti non licet? In baptismo utique remissio peccatorum omnium est: quid interest, utrum per pœnitentiam, an per lavacrum hoc jus sibi datum sacerdotes vindicent?

^x Gaudent. Tract. xvi. de ordinat. suæ. Biblioth. Patr. tom. ii. p. 59. (tom. v. p. 968. f. edit. Lugdun. 1677.) Janua regni cœlorum non nisi hac sacramentorum spiritualium clave reseratur.

the gate of the kingdom of heaven." Consequently he must mean also, that so far as ministers are instrumental in conferring the sacrament of baptism, so far they are instrumental in procuring men that remission of sins which attends it. And for this reason Chrysostom magnifies the sacerdotal office upon a double account, "because the priests^y have power to remit sins both when they regenerate us, and afterwards:" that is, both by baptism and penance, when they first admit men into the Church, and re-admit or reconcile them after any great transgression. But I mention this, not so much to explain the penitential discipline of the Church (in which baptismal absolution has no concern) as to remark a few other necessary things. As first, that sacerdotal absolution in general extends much further than is commonly apprehended: for it includes the whole transaction of baptism, whereby remission of sins is ministerially granted to every true member of Christ, when he is first admitted into his Church. Whence it follows secondly, that sacerdotal absolution does not necessarily require any particular or auricular confession of private sins; forasmuch as that the grand absolution of baptism was commonly given without any particular confession. And therefore the Romanists vainly found the necessity of auricular confession upon those words of our Saviour, 'Whosoever sins ye remit, they are remitted unto them:' as if there could be no absolution without particular confession; when it is so plain, that the great absolution of baptism (the power of which is founded by the ancients upon this very place) required no such particular confession. Thirdly, we may hence infer, that the power of any sacerdotal absolution is only ministerial; because the administration of baptism (which is the most universal absolution) so far as man is concerned in it, is no more than ministerial. All the office and power of man in it is only to minister the external form, but the internal power and grace of remission of sins is properly God's: and so it is in all other sorts of absolution. Therefore though baptismal absolution be no part of penitential discipline, yet by observing these things in it, we

^y Chrysostom. de Sacerdot. lib. iii. c. vi. (tom. iv. p. 32, edit. Francof.) Οὐ γὰρ ὅτ' ἂν ἡμᾶς ἀναγεννώσι μόνον, ἀλλὰ καὶ τὰ μετὰ ταῦτα συγχωρεῖν ἔχουσιν ἱερωσύνην ἀπαρτήματα. See note (i), p. 540.

shall more easily discern the true nature of those other absolutions, which have some relation to the penitential discipline of the Church.

SECT. III.—*Of the Absolution granted by the Eucharist.*

The first of these (though we may call it the second in the general consideration of absolutions) was the absolution that was given by the ministry of the Eucharist. This had some relation to penitential discipline, but did not solely belong to it. For it was given to all baptized persons, who never fell under penitential discipline, as well as those who lapsed, and were restored to communion again. And in both respects it was called the $\tau\omicron\ \tau\acute{\epsilon}\lambda\epsilon\iota\omicron\nu$, ‘the perfection’ or consummation of a Christian; there being no higher mystery that an ordinary Christian could partake of. To those who never fell into such great sins as required a public penance, it was an absolution from lesser sins, which were called venial, and sins of daily incursion: and to penitents, who had lapsed, it was an absolution from those greater sins, for which they were fallen under censure. That it was esteemed such a general absolution in both cases, we learn from the characters which the ancients give of it both at large, and with a particular respect to its loosing the bonds of excommunication. Cyprian² says in general, “That when we drink the blood of the Lord, and the cup of salvation, we put off the remembrance of the old man, and forget our former secular conversation; and our sorrowful and heavy heart, which before was pressed with the anguish of our sins, is now absolved or set at liberty by the joyfulness of the divine indulgence or pardon.” And more particularly, that it was esteemed an absolution, as it resolved the bonds of excommunication, without any other formality or ceremony of receiving the penitent into the communion of the Church, we learn from that order made in the first Council of Orange,³

² Cyprian. Epist. lxiii. ad Cæcilium. (Oxon. 1682. p. 153.) (p. 279, edit. Amstel. 1700.) Epoto sanguine Domini et poculo salutari exponatur memoria veteris hominis, et fiat oblivio conversationis pristinæ sæcularis, et moestum pectus ac triste, quod prius peccatis agentibus premebatur, divinæ indulgentiæ lætitia resolvatur.

³ Concil. Arausic. I. can. iii. (Labbé, vol. iii. p. 1447.) Qui recedunt de cor-

“That such penitents as are ready to leave the body, shall have the communion without the reconciliatory imposition of hands:” (which, as we shall see by and by, was the usual and ordinary ceremony in reconciling penitents publicly at the altar, and what these were to have afterwards, if they happened to survive.) In the meantime this sort of communion, the eucharist taken without imposition of hands, was sufficient for the consolation or reconciliation of a dying person, according to the decrees of the Fathers, who congruously call this sort of communion their ‘Viaticum,’ or provision for their journey. The fourth Council of Carthage has two canons implying the same thing. The first says,^b “If a penitent is struck dumb in his sickness, and is thought to be at the point of death, he shall be reconciled both by imposition of hands, and by the eucharist put into his mouth.” And the other^c grants the eucharist, as an absolution by itself, to penitents in sickness, if they chance to die; only providing, that in case they recover, they shall not hold themselves absolved without imposition of hands also: because in case they survived, they were obliged to perform the residue of their penance, which they should have done before, and then be reconciled by imposition of hands publicly at the altar; but if they died, the eucharist alone was a sufficient absolution for them. And this is confirmed by that memorable story related by Eusebius,^d

pore, pœnitentia accepta, placuit sine reconciliatoria manus impositione, eos communicari, quod morientis sufficit consolationi [reconciliationi], secundum definitiones patrum, qui hujusmodi communionem congruenter viaticum nominaverunt.

^b Concil. Carth. IV. c. lxxvi. (Labbé, vol. ii. p. 1205.) Is qui pœnitentiam in infirmitate petit, . . . si continuo creditur moriturus, reconcilietur per manus impositionem, et infundatur ori ejus eucharistia.

^c Ibid. can. lxxviii. (Labbé, vol. ii. p. 1206.) Pœnitentes, qui in infirmitate viaticum eucharistiæ acceperint, non se credant absolutos sine manus impositione, si supervixerint.

^d Euseb. lib. vi. c. xliv. (Vales. Amstel. 1695. p. 200.) Σεραπίων τις ἦν παρ’ ἡμῖν πιστὸς γέρον· ἀμέμπτως μὲν τὸν πολλὸν διαβιώσας χρόνον· ἐν δὲ τῷ πειρασμῷ πεσὼν. οὗτος πολλάκις ἰδεῖτο, καὶ οὐδεὶς προσεῖχεν αὐτῷ, καὶ γὰρ ἐτεθύκει· ἐν νόσῳ δὲ γενόμενος, τριῶν ἐξῆς ἡμερῶν ἄφωνος καὶ ἀναίσθητος διετέλεσε. βραχὺ δὲ ἀνασφύλας τῇ τετάρτῃ, προσεκαλέσατο τὸν θυγατρίδου· καὶ μέχρι τίνος φησὶν, ὃ τέκνον, με κατέχετε; δέομαι σπεύσατε, καὶ με θάττον ἀπολύσατε· τῶν πρεσβυτέρων μοί τινα κάλεσον· καὶ ταῦτα εἰπὼν, πάλιν ἦν ἄφωνος. ἔδραμεν ὁ παῖς ἐπὶ τὸν πρεσβύτερον· νύξ δὲ ἦν· κἀκείνος

out of an epistle of Dionysius, bishop of Alexandria, concerning one Serapion, an aged man, who had led a virtuous life, but happened at last to lapse into idolatry in time of persecution. He had often sued for pardon, but no one would hearken to him, because he had sacrificed to idols. Afterward falling sick, he sent for one of the presbyters to come and absolve him in the night. The presbyter himself was sick, and could not go to him: but because the bishop had given in charge, that absolution should be granted to all that were at the point of death, if they desired it, and especially if they had earnestly desired it before, that they might have hope and consolation in their last minutes, when they were about to leave the world; the presbyter sent him a little portion of the eucharist by the boy that came for him, bidding him to dip it in liquor, and put into his mouth. Which he did, and presently the man expired. Upon which Dionysius himself makes this remark: "That it was apparent, that God preserved him, and continued him so long in life, till he might be absolved, and have his sins blotted out, and be owned by Christ for the many good deeds he had done." I need make no other reflection upon the story, since Dionysius tells us so plainly, that to minister the eucharist to men was to grant them absolution, and remission of sins, and peace and favour with Christ, when it was given in his Name to worthy receivers. And thus it was, that the ministers of Christ, as his ambassadors, were always supposed to have the ministerial power to remit sins, and reconcile penitents to Christ, by this sacramental absolution.

ήσθένει· ἀφίκεσθαι μὲν οὖν οὐκ ἐδυνήθη· ἐντολῆς δὲ ὑπ' ἐμοῦ δεδομένης, τοὺς ἀπαλλαττομένους τοῦ βίου, εἰ δέοιντο, καὶ μάλιστα εἰ καὶ πρότερον ἱκετεύσαντες τύχοιεν, ἀφίκεσθαι, ἢν' εὐέλπιδες ἀπαλλάττωνται βραχὺ τῆς εὐχαριστίας ἐπέδωκεν τῷ παιδαρίῳ, ἀποβρέξαι κελεύσας, καὶ τῷ πρεσβύτῃ κατὰ τοῦ στόματος ἐπιστάξαι. Ἐπανήκεν ὁ παῖς φέρων . . . ἀπέβρεξεν ὁ παῖς, καὶ ἅμα τε ἐνέχεε τῷ στόματι· καὶ μικρὸν ἐκεῖνος καταβροχθίσας, εὐθέως ἀπέδωκε τὸ πνεῦμα· ἄρ' οὐκ ἐναργῶς διετερήθη καὶ παρέμεινεν ἕως λυθῆναι, καὶ τῆς ἁμαρτίας ἐξαλειψέσεως, ἐπὶ πολλοῖς οἷς ἐπραξε καλοῖς ὁμολογηθῆναι δυννηθῆναι;

SECT. IV.—*Of Absolution declaratory and effective by the Administration of the Word and Doctrine.*

The third sort of absolution is that of the word and doctrine, which is partly declarative, and partly operative and effective; and is of use both in penitential discipline, and out of it. For the ministers of Christ, as his ambassadors, have commission and authority to make a general and public declaration of the terms of reconciliation and salvation to men. And this is also ministerially operative in working faith and repentance in men's souls, which are the terms of salvation, whereby they obtain remission of sins. For faith comes by hearing, and hearing by the word of God. They have also power to declare to men in particular, that they are in a salvable state, when upon the best human judgment that they can make, they apprehend and discern in them the necessary conditions of salvation. This is that key of knowledge, whereby they open to men the gate of heaven, and the way to eternal life, procuring for them the remission of sins, and all the benefits of the Gospel covenant. It is this that introduces men at first into God's favour, and ascertains them of it; and when they are fallen from that state by wilful sin, it is a means, as a part of the Church's penitential discipline, to reduce them back again to their forfeited estate and primitive condition. Upon which account, hearing of the word of God, as we have seen before, was always one station of penitents in the Church, and was an initiatory sort of reconcilment of them to God, introductory to the great and last reconcilment at the altar. And in this sense, the ancients say, Christ gave his disciples power to remit sins. "Every man," says St. Jerom,^e "is bound in the cords of his own sins: which cords and bonds the apostles have power to loose, imitating their Master, who said unto them: 'Whatsoever ye loose upon earth, shall be loosed in heaven.' Now the Apostles loose them by the word

^e Hieron. in Isai. xiv. 17. (Venet. 1767. Vallars. vol. iv. p. 254. A 4.) Funibus peccatorum suorum unusquisque constringitur: quos funes atque vincula solvere possunt et apostoli, imitantes magistrum suum, qui eis dixerat: 'Quaecumque solveritis super terram, erunt soluta et in cælo.' Solvunt autem eos apostoli sermone Dei, et testimoniis scripturarum, et exhortatione virtutum.

of God, and testimonies of Scripture, and exhortation unto virtues." In like manner St. Ambrose^f says, "Sins are remitted by the word of God, whereof the Levite is the interpreter, and a sort of executor: and in this respect, the Levite is the minister of remission." "It is this key of the word," says Maximus Taurinensis,^g "which opens the conscience to confession of sins, and includes therein the grace of the mystery of salvation unto eternity." Thus ministers are said to be instrumental in reconciling men to God, and procuring them remission of sins, because to them is committed the word of reconciliation.

SECT. V.—*Of the precatory Absolution given by Imposition of Hands and Prayer.*

The fourth sort of absolution was that of intercession and prayer, which was used as a concomitant of most other absolutions. For baptism and the eucharist were either administered in a precatory form, or at least prayers and intercessions for pardon of sins always attended them: and so they did also the great and solemn reconciliation of penitents at the altar. And to prayer they commonly joined imposition of hands; a rite and ceremony of benediction that was used in all offices of religion. By this persons were at first admitted to the state of Catechumens, and by this trained up in their preparation for baptism. By this, persons were confirmed in the close of baptism. By this, ordinations were given to the clergy, and benedictions to all the people. And Albaspinæus^h

^f Ambros. de Abel et Cain, lib. ii. c. iv. (Paris. 1836. vol. i. p. 148.) Remittuntur peccata per Dei verbum, cujus Levites interpres, et quidam executor. . . . Levites igitur minister remissionis est.

^g Maxim. Taurin. hom. v. de Natali Petri et Pauli, p. 231. Clavis est, quæ et conscientiam ad confessionem peccati aperit, et gratiam ad æternitatem mysterii salutaris includit.

^h Albaspin. Observat. lib. ii. c. xxxi. (Helmest. 1672. p. 251.) Prima manus impositio quam poenitentes sortiebantur, erat ea, qua peragendæ poenitentiae copia facultasque daretur. Secunda, quam in tertio gradu poenitentiae consequiebantur. Quum enim solemne missæ sacrificium instaurabatur, certo in ecclesiæ loco aderant, iisque in terram dejectis ante evangelii recitationem ejusque expositionem, si priora sæcula respicias, episcopi manus imponebant, et super eos certas precationum formulas pronuntiabant. Tertia erat simplex illa reconciliatio, quam a tertio gradu ad quartum discedentes impetrabant, qua

has observed, that, in the course of public penance, this ceremony was, at least four times, used towards all that went through it, before they were completely reconciled and admitted to full communion. 1. They were admitted to penance by imposition of hands. 2. They had frequent imposition of hands whilst they were penitents in the order of Kneelers or Prostrators. 3. They were admitted to the lower degree of communion in prayers only without the oblation by the same rite. 4. And lastly, imposition of hands was one of the solemn rites of admitting them to the more perfect degree of reconciliation at the altar. Now though prayer and imposition of hands was not esteemed an absolution in all these cases, yet in many of them it certainly was. For Chrysostom speaking of the several powers of the sacerdotal office, and the methods of expiating sin, says, “The priests do it not only by their doctrine and admonition, but also by the assistanceⁱ of their prayers: they have power of remitting sins, not only when they regenerate us in baptism, but afterwards. For St. James says, ‘Is any sick among you? Let him call for the elders of the Church, and let them pray over him, anointing him with oil in the name of the Lord: and the prayer of faith shall save the sick, and the Lord shall raise him up; and if he have committed sins, they shall be forgiven him.’” Pope Leo, after the same manner, makes sacerdotal absolution to consist in prayer. “The assistances of divine goodness,” says he,^k “are so or-

corporis Christi mystici communioni et societati fidelium conjungebantur, omni adeo in re, si oblationes et eucharistiam excipias. Quarta et ultima erat absoluta reconciliatio, maxima et perfecta, qua digni, qui eucharistiam sumerent, oblationem præsentarent, eorumque participes fierent, reddebantur, quod unum tantumque beneficium summi boni loco Christiani numerabant.

ⁱ Chrysost. de Sacerdot. lib. iii. c. vi. (Paris. 1614. tom. iv. p. 34. D 7. (p. 32, edit. Francof.) Οἱ μὲν γὰρ εἰς ταύτην, οἱ δὲ εἰς ἐκείνην γεννώσι· κἀκείνοι μὲν οὐδὲ τὸν σωματικὸν αὐτοῖς δύναιντ’ ἂν ἀμῦναι θάνατον, οὐ νόσον ἐπενεχθεῖσαν ἀποκρούσασθαι. οὗτοι δὲ καὶ κάμνουσαν καὶ ἀπόλλυσθαι μέλλουσαν τὴν ψυχὴν πολλάκις ἔσωσαν· τοῖς μὲν προσηύον τὴν κόλασιν ἐργασάμενοι, τοὺς δὲ οὐδὲ παρὰ τὴν ἀρχὴν ἀφέντες ἐμπεσεῖν, οὐ τῷ διδάσκειν μόνον καὶ νουθετεῖν, ἀλλὰ καὶ τῷ δι’ εὐχῶν βοηθεῖν· οὐ γὰρ ὅτ’ ἂν ἡμᾶς ἀναγεννώσι μόνον, ἀλλὰ καὶ τὰ μετὰ ταῦτα συγχωρεῖν ἔχουσιν ἔξουσίαν ἁμαρτήματα· ἀσθενεῖ γὰρ τις, φησιν, ἐν ὑμῖν, προσκαλεσάσθω τοὺς πρεσβυτέρους, κ. τ. λ.

^k Leo, Epist. lxxxiii. al. xci. ad Theodor. (Lugdun. 1700. vol. i. p. 302.) Multiplex misericordia Dei ita lapsibus subvenit humanis, ut non solum per baptismi gratiam, sed etiam per poenitentiae medicinam spes vitae reparetur aeternae,

dained, that the divine indulgence is not to be obtained but by the supplications of the priests. And it is very useful and necessary that the guilt of sin should be loosed by the supplications of the priests before the last day." Here remission of sins is plainly ascribed to the efficacy of intercession and prayer. St. Austin¹ says, the prayers of holy men in the Church procure remission of sins both in baptism and penance. For he argues thus: if the prayers of holy men in the Church procure remission of sins for those who are baptized not by the dove, but by the hawk, [that is, not by good, but wicked men,] if they come to that sacrament in the peace of catholic unity; why should not the prayers of the same men loose the sins of those who return from heresy or schism to catholic unity? He adds ^m a little after, that the prayers of the saints [that is, the mournings of the dove] grant remission of sins to those that are baptized in the peace of the Church, whatever the person be that administers baptism, whether he be a covetous man or an extortioner, because he only acts in the person of the Church, by whose prayers remission of sins is obtained. Therefore he exhorts the Donatists, in another ⁿ

ut qui regenerationis dona violassent, proprio se judicio condemnantes, ad remissionem criminum pervenirent; sic divinæ bonitatis præsidii ordinatis, ut indulgentia Dei nisi supplicationibus sacerdotum nequeat obtineri. . . . Multum utile ac necessarium est, ut peccatorum reatus ante ultimum diem sacerdotali supplicatione solvatur.

¹ Augustin. de Baptism. lib. iii. c. xvii. (tom. vii. Opp. p. 410, edit. Basil. 1569.) An forte per orationes Sanctorum Spiritualium qui sunt in ecclesia, tamquam per columbæ creberrimum gemitum, magnum geritur sacramentum, et occulta dispensatio misericordiæ Dei, ut eorum etiam peccata solvantur, qui non per columbam, sed per accipitrem [hoc est, non per bonos sed malos] baptizantur, si ad illud sacramentum cum pace catholicæ unitatis accedunt? Quod si ita est, cur non ergo per eorum orationes, quum quisque ab hæresi aut schismate ad pacem catholicam venit, ejus peccata solvantur? (Bened. 1700. vol. ix. p. 79. A 13.)

^m Ibid. cap. xviii. E 4. Remissam peccatorum non dabant; quæ per orationes sanctorum, id est, per columbæ gemitus datur, quicumque baptizet, si ad ejus pacem illi pertinent, quibus datur.

ⁿ Augustin. de Bapt. lib. ii. c. xiii. (Bened. 1700. vol. ix. p. 71, at bottom.) Multum valet ad propitiandum Deum fraterna concordia. Si duobus ex vobis, ait Dominus, convenerit in terra, quicquid petieritis, fiet vobis. Si duobus hominibus, quanto magis duobus populis? Simul nos Domino prosternamus, participamini nobiscum unitatem, participemur vobiscum dolorem, et caritas cooperiat multitudinem peccatorum.

place, to return to the peace of the Church, where by the joint prayers of two people united they might obtain remission of sins. For the Lord had said, 'If two of you shall agree on earth as touching any thing that they shall ask, it shall be done for them of my Father which is in heaven.' "If for two men, how much more for two people? Therefore let us jointly fall down to supplicate the Lord; do you partake with us in unity, and let us partake with you in sorrow, that charity may cover the multitude of sins." Here again, we see, remission of sins is ascribed to prayer. And so Cyprian understood it, when he thus addressed himself to those that had lapsed into idolatry: "We pray you to repent, that we may be able to pray to God for you: we first turn our prayers to you, that we may turn the same to God, and beseech him to have compassion on you." Eusebius,^p after Clemens Alexandrinus, notes this to have been the method whereby St. John obtained pardon of Christ for the young man, who after a pious education in the Church was become a most notorious robber upon the mountains: he interceded with Christ by frequent prayers and fastings, and thereby restored him, a great example of repentance, to the Church. And thus Tertullian,^q whilst he was a Catholic, represents Christ as joining his intercession with the tears of the Church, and thereby obtaining pardon for the penitent sinner. The first Council of Orange^r appoints this to be the way of reconciling heretics, who desire to become Catholics at the point of death: if the bishop was not at hand, the presbyters were to consign them with chrism, and the benediction: which benediction was the same as im-

^o Cyprian. de Lapsis, (Oxon. 1682. p. 136.) (p. 97, edit. Amstel.) Rogamus vos, ut pro vobis Deum rogare possimus: preces ipsas ad vos prius vertimus, quibus Deum pro vobis, ut misereatur, oramus.

^p Euseb. lib. iii. c. xxiii. ex Clement. Alex. tract. Quis dives salvetur? Δαψιλίσαι μὲν εὐχαῖς ἑξαυτοῦμενος . . οὐ πρότερον ἀπῆλθε ὥς φασι, πρὶν αὐτὸν ἀποκατίστησε τῇ ἐκκλησίᾳ· διδοὺς μέγα παράδειγμα μετανοίας ἀληθινῆς, καὶ μέγα γνῶρισμα παλιγγενεσίας, τρόπαιον ἀναστάσεως βλεπομένης.

^q Tertull. de Penit. c. x. (Paris. 1664. p. 127. C.) Æque illi quum super te lacrimas agunt, Christus patitur, Christus patrem deprecatur. Facile impetratur semper, quod Filius postulat.

^r Concil. Arausican. c. ii. (Labbé, vol. iii. p. 1447.) Si desit episcopus, a presbyteris cum chrismate et benedictione consignari placuit.

position of hands and prayer. For as imposition of hands by a figure always implies prayer, with imposition of hands, as an outward sign or ceremony accompanying prayer ; so both these together are what the ancients always means by a benediction. So that when the Council bids those who are baptized in heresy, to be reconciled to the Church, or absolved by a benediction, it is plain that prayer is understood as the proper means of their absolution. And it is the same thing as is ordered in other canons,^s that heretics so baptized should be received into communion by chrism and imposition of hands, that is, unction to consign or confirm them with the Spirit (which was wanting in their heretical baptism) ; and prayer with imposition of hands, to give them the peace and communion of the Church. Of which way of reconciling and absolving penitent heretics, who were baptized out of the Church, we shall have occasion to discourse a little more distinctly hereafter. Here I only add further the testimony of St. Ambrose,^t who says, The priests execute that commission which is given by Christ, John xx. 23, for remitting of sins, as intercessors by their prayers. “They make request, but God bestows the gift: the service is human, but the bounty (of forgiveness) is from the power above.” So that if this be not the only way, whereby the ministers of Christ are empowered

^s Concil. Arelat. II. can. xvii. (Labbé, vol. iv. p. 1013.) Bonosiacos, . . . quos baptizari in trinitate manifestum est, . . . cum chrismate et manus impositione . . . recipi sufficit. — Leo Epist. xcii. ad Rustic. c. xvi. Per manus impositionem, invocata virtute Spiritus Sancti, quam ab hæreticis accipere non potuerunt, Catholicis copulandi sunt. — Vide Siricium, Epist. I. ad Himerium, cap. i. (Labbé, vol. ii. p. 1018.) Quos nos cum Novatianis aliisque hæreticis, sicut est in synodo constitutum, per invocationem solam septiformis spiritus, episcopalis manus impositione, catholicorum conventui sociamus. — Innocent. Epist. ii. ad Victricium, c. viii. (Labbé, vol. ii. p. 1251.) Ut venientes a Novatianis vel Montensibus, per manus tantum impositionem suscipiantur. Id. epist. xviii. ad Alexandr. c. iii. (Labbé, vol. ii. p. 1269.) Arianos præterea, ceterasque hujusmodi pestes, quia eorum laicos conversos ad Dominum, sub imagine poenitentiae ac Sancti Spiritus sanctificatione per manus impositionem suscipimus, etc. Id. Epist. xxii. c. iv. (Labbé, vol. ii. p. 1274.) Nostræ lex est ecclesiæ, venientibus ab hæreticis, qui tamen illic baptizati sint, per manus impositionem laicam tantum tribuere communionem, etc.

^t Ambros. de Spirit. Sancto, lib. iii. c. x. (Paris. 1836. vol. viii. p. 64.) Isti rogant, divinitus donat ; humanum enim obsequium, sed munificentia supernæ est potestatis.

to remit sins, as some of the schoolmen themselves have determined ; yet it was certainly one way, and that of general use in the primitive Church ; as is clearly evident from the present allegations, and will be made more apparent in the sequel of this discourse.

SECT. VI.—*Of the judicial Absolution of Penitents by restoring them finally to the Peace and full Communion of the Church.*

For prayer had a considerable share in the great and final absolution of penitents, when after they had performed their canonical penance, they were solemnly reconciled and received to the peace and perfect communion of the Church at the altar. This was that famous way of remitting sins, and absolving sinners, of which we read so much in the monuments of the fathers and councils, where they speak of penitential discipline and absolution of sinners. This is what is generally meant by those ancient phrases, ‘granting them peace, restoring them to communion, reconciling them to the Church, loosing their bonds, granting them pardon and indulgence, and remitting their sins,’ which are but so many different ways of expressing this one thing, viz. the solemn manner of absolving public penitents and admitting them to full communion, when their canonical penance was regularly performed. And this comprehended all the other ways of absolution, except that of baptismal absolution. For, as I noted before, no penitent that had once been regularly baptized, was ever admitted to communion by a second baptism : but they had the absolution of prayer and imposition of hands, and the absolution of the eucharist, and the declaratory absolution of the word and doctrine. For solemn prayer was made to God for them, to procure their absolution from him ; and the solemn imposition of hands was given them, to signify their reconciliation ; and the eucharist was immediately given them, to restore them to the communion of the altar ; and by the whole a declaration was made, that they were now again in the society and peace of the Church, and in favour with God, as far as human understanding could make any judgment of them. And upon this account, some ancient writers acknowledge no other sorts of absolu-

tion but only two ; the baptismal absolution, which is antecedent to all penitential discipline ; and this sort of reconciling public penitents to the communion of the altar ; because this latter comprehends all the other ways of absolution in the several acts and ceremonies that were used in the conferring of it. Thus we have heard, before, Cyril of Alexandria^u expounding those words of the commission, (John xx. 23.) ‘Whosoever sins ye remit, they are remitted unto them :’ “Spiritual men remit or retain sins two ways : for either they call those to baptism, who are worthy of it upon the account of a good life and approved faith ; or else they forbid and repel those from the divine gift, who are unworthy of it. This is one way of remitting or retaining sins : the other way is, when they correct and punish the children of the Church offending, and pardon them again upon their repentance.” Now because the ministers of Christ are in a great measure the proper judges of men’s qualifications both for baptism and the eucharist, therefore a great power and authority was allowed them in both these cases to examine into men’s behaviour and faith, and to judge who were fit and who were not fit for the reception of them : and accordingly to minister, or not minister to them those mysteries, which were the means of conveying remission of sins to the worthy receiver ; and so they were invested with a sort of absolute judicial authority in the external administration of these things with respect to the outward communion of the Church, though not with an absolute authority over the conscience in respect to God, who alone can properly remit sin, and absolve the sinner. So they acted in a double capacity in these matters ; as judges in respect of men’s visible qualifications for the sacraments, and the proper time and season of admitting them to the participation of them ; having power to shorten or prolong the time,

^u Cyrill. lib. xii. in Joan. xx. 23. tom. iv. p. 1101. cit. § ii. sub litt. (u) p. 533. ‘Quorum peccata remiseritis, remittuntur eis : et quorum retinueritis, retenta sunt.’ Remittunt peccata vel retinent spiritu adflati homines duobus modis. Vel enim dignos ad baptismum vocant, vitæ nimirum gravitate et constantia fidei jam probatos homines ; vel prohibent et a gratia divina arcent eos, qui nondum digni sunt. Vel alio quodam modo peccata remittunt ac retinent, nempe quum filios ecclesiæ peccantes corripiunt, vel pœnitentibus ignoscunt.

as they judged of the negligence or proficiency of the petitioning parties : but they acted only as intercessors to God for them, as to any thing pertaining directly and properly to the purification of the conscience from sin, which is not in man's power, but only in a ministerial way, to do those things which as means of grace may contribute towards obtaining a proper absolution and remission of sins from God, in whose power only is the absolute power of forgiving sins. This is the true state of the matter, as to what concerns the several sorts of absolution in use in the ancient Church, and particularly that absolution which was given to public penitents upon their restoration to communion ; the manner and ceremonies of which, with other incident circumstances, I shall now go on a little further to explain.

CHAPTER II.

OF THE CUSTOMS, RITES, AND CIRCUMSTANCES ANCIENTLY
OBSERVED IN THE PUBLIC ABSOLUTION OF SINNERS.

SECT. I.—*No Sinners anciently absolved, till they had performed their regular Penance, except in case of imminent Death.*

WHEN sinners had performed their regular penance, and carefully gone through the several stages of discipline appointed for the distinct orders of penitents in the Church, they were then admitted to complete and perfect communion by the great and last reconciliatory absolution. But this was anciently granted to none, before they had orderly completed the full term of their penance ; unless it was in case of imminent death, when their desperate case made it reasonable to treat them a little more favourably, and grant them an indulgence, which no consideration but that extraordinary exigence could procure them. Indulgences were not then bought and sold, as they were most shamefully in after ages : much less was bare confession sufficient to gain a man absolution, before

he had done a formal and serious penance to the satisfaction of the Church. The Audian heretics indeed were very faulty in this matter, as Theodoret informs us.^a For they not only assumed to themselves a despotic authority, like the Donatists, to pardon sins by their own power; but also hastily granted remission upon a bare confession, without staying for any fruits of repentance, or prescribing any time for the public manifestation of them, as the laws of the Church always required. And there were some presbyters of the Church in Cyprian's time, who for favour of filthy lucre, were much inclined to admit lapsers, without any just penance done, in a very hasty and preposterous manner, to communion. And the martyrs, by their artifices and frauds, were many times induced to intercede to the bishops for such sinners, and almost demand of them an immediate re-admission of the offenders. But Cyprian very sharply remonstrates against this usurpation and abuse, in several letters written both to the clergy,^b and the martyrs, and the people themselves, wherein he sets forth both the irregularity and the danger of the practice; telling the people particularly, that this indulgent facility in the clergy to grant them such a preposterous peace, did not really give them peace, but destroy it; nor grant them true communion, but only hinder their salvation. And St. Ambrose^c makes a like reflection on the vanity of those who seek for such a sudden restoration: "Some men (says he) desire to be admitted to penance only for this reason, that they may presently re-

^a Theodoret. de Fabulis Hæretic. lib. iv. c. xiii. (al. x.) (Schulze, Hal. vol. iv. p. 365.) Οὗτοι ἄφεσιν ἁμαρτημάτων ποιῆσθαι νεανιέονται. διχῇ γὰρ τὰς ἱεράς βίβλους μετὰ τῶν νόθων διελόντες, (διαφερόντως γὰρ ταύτας νομίζουσιν ἀποκρίφους καὶ μυστικὰς) καὶ στιχηδὸν ἔνθεν καὶ ἔνθεν τεθεικότες, διαβαίνειν ἕκαστον μεταξὺ τούτων κελεύουσι, καὶ τὰ πλημμεληθέντα ὁμολογεῖν· εἰτα τοῖς ὁμολογηκόσι δωροῦνται τὴν ἄφεσιν· οὐ χρόνον ὀριζόμενοι εἰς μετάνοιαν, καθὰ κελεύουσιν οἱ τῆς ἐκκλησίας θεσμοί, ἀλλ' ἐξουσίᾳ ποιούμενοι τὴν συγχώρησιν.

^b Cyprian. Epist. x. al. xvi. ad clerum, tot. (Oxon. 1682. p. 37.) (p. 194, seq. edit. Amstelod. 1700.) Epist. x. al. xv. ad martyres, tot. p. 34. (p. 192-194. cit. edit.)—It. de Lapsis, p. 128. (p. 92, 93.)

^c Ambros. de Pœnitent. lib. ii. c. ix. (Paris. 1836. vol. iv. p. 116.) Nonnulli ideo poscunt pœnitentiam, ut statim sibi reddi communionem velint. Hi non tam se solvere cupiunt, quam sacerdotem ligare: suam enim conscientiam culpa non exuunt, et sacerdotis induunt, cui præceptum est, 'Nolite sanctum dare canibus, neque miseritis margaritas ante porcos.'

ceive the communion again. These men do not so much desire to be absolved themselves, as to bind the priest : for they retain their evil conscience ; and therefore the priest sins greatly in admitting men, who give no signs of repentance, to communion against the laws of the Church." There was one case indeed in which men might be reconciled privately, when they had not perfectly gone through their whole course of penance ; which was, when they lay sick and despaired of upon a death-bed : but that was an extraordinary case, and the only exception that the general rule admitted of ; and was only a private, and not a solemn and public reconciliation : and even in that case, as I have showed before,¹ the canons provided, that if the sick man recovered, he should perform the residue of his penance in the regular course appointed for public penitents, before he was solemnly reconciled at the altar. So that the custom of absolving sinners in health before any penance is done, must be determined to be not only a novelty, but a great abuse and corruption of the ancient discipline, wholly owing to the degeneracy of latter ages.

SECT. II.—*Penitents publicly reconciled in Sackcloth at the altar.*

As to the manner of the ancient reconciliation, it was usually thus performed. When a sinner had gone through the course of his penance, he was brought to the altar in the same habit that he had performed his penance, that is, in sackcloth, and there with solemn prayers and tears and imposition of hands received to full communion. The circumstance of sackcloth is mentioned by the first Council of Toledo ;^d and the place of reconciliation said to be the altar, not only by that council, but by Optatus,^e who, speaking to the Donatists, and of their way of reconciling penitents, (which was the same as was used in the Catholic Church) he tells them, that "at the

¹ Lib. xviii. cap. iv. § ii. vol. vi. p. 499.

^d Concil. Tolet. I. c. ii. Publicam poenitentiam gerens sub cilicio, divino reconciliatus altario. (Labbé, vol. ii. p. 1224.)

^e Optat. lib. ii. (Paris. 1631. p. 57.) (p. 52, edit. Paris. 1679.) Inter vicina momenta, dum manus imponitis et delicta donatis, mox ad altare conversi, Dominicam orationem prætermittere non potestis. (Antwerp. 1702. p. 44.)

same time that they laid hands on sinners, and remitted their sins, they turned to the altar, and said the Lord's Prayer." And so St. Jerom^f says, the bishop enjoins the people common prayer, when he reconciles any one, who had been delivered over unto Satan, to or at the altar.

SECT. III.—*Sometimes more publicly before the Apsis or Reading-desk.*

Yet in some cases, when the crime was very public, and more than ordinarily notorious and scandalous to all the people, the criminal, for example's sake, received his absolution in a more public place, before the Apsis or reading-desk, in the open body of the Church, and in the view of all the people. This we learn from a canon of the third Council of Carthage,^g inserted into the African Code, which says, that if "any penitent's crime be public, or vulgarly known to all, so as to have given scandal to the whole Church, he shall receive imposition of hands, [that is, his absolution,] before the Apsis." Learned men, indeed, are not exactly agreed about the sense of this canon: Du Fresne,^h after Balsamon and Zonaras, takes the Apsis for the church-porch; and Zonaras says, 'the imposition of hands' means the first imposition that admitted them to penance. Albaspinæusⁱ thinks the Apsis means the same as

^f Hieron. Dialog. contr. Lucif. c. ii. (Venet. 1767. vol. ii. p. 175. A 13.) Sacerdos . . . indicta in populum oratione, altario reconciliat.

^g Concil. Carth. III. c. xxxii. Vide Cod. Afric. c. xliii. (Labbé, vol. ii. p. 1070.) Οὐτινοςδὲποτε δὲ μετανοοῦντος, εἰ πούβλικον καὶ τεθυρλημένον ἐστὶ τὸ ἐγκλημα, τὸ σύμπασαν τὴν ἐκκλησίαν κινεῖν, πρὸ τῆς ἀψίδος τοῦτφ ἢ χεῖρ ἐπιτεθῆ.

^h Du Fresne, Commentar. in Paulum Silentiarium, p. 537. Ita porro ἀψίδα interpretatur Zonaras in can. xlvi. Concil. Carthag. Τὸ γὰρ πρὸ τῆς ἀψίδος, πρὸ τοῦ προπυλαίου ἐστίν. Unde quum in synodo III. Carthaginensi, can. xxxii. cavetur, ut iis quorum crimina publica sunt, ante apsidem manus imponatur; id videtur intelligendum de apside narthecis, ubi consistebant poenitentes, non vero de absida, seu concha altaris.

ⁱ Albaspin. not. in Concil. Carth. III. can. xxxii. (Labbé, vol. ii. p. 1188. E 17.) Canonis hujus veram hanc sententiam esse censeo, si, unde omnium fidelium exulcerantur animi, quod quidem omnium oculis pateat, peccatum crimenque atrocissimum patratum sit, omnino esse præstandum, ut a quo id admissum est, is præter communem aliorum consuetudinem atque morem, supplicio quodam exquisito, quod pro exemplo sit, poenas luat: sed ita, ut ne transversum quidem unguem a præscripto cærimoniæ, aut asperitatum, quæ tertio gradu comprehen-

the Ambo or reading-desk ; where the penitents of the third class, called the Substrators, kneeled down daily to receive imposition of hands : and to this he thinks the imposition of hands mentioned in the aforesaid canon, chiefly relates, but with this difference, that whereas ordinary penitents received their imposition of hands a little more privately behind the desk, these more notorious and scandalous criminals, which the canon speaks of, received it publicly before the desk, in the face and view of all the people. He also is of opinion, that their final absolution was given them in the same place : and that I take to be the true meaning of the imposition of hands in the canon now before us.

SECT. IV.—*Absolution at the Altar always given in a supplicatory form by imposition of hands and prayer.*

However, it is certain, whatever the sense of that canon be, that the great and final absolution of public penitents was always performed in a supplicatory form by imposition of hands and prayer. This is evident from the forementioned testimonies of Optatus and St. Jerom. Cyprian speaks often of it, as used both in public and private reconciliation. In one place he says, “all penitents^k continued a just time in the exer-

duntur, in terram sese abjiciat, crebra illa manuum impositione ante absidem purgetur, ceteraque precum ac purgationum genera non negligat, idque non illo pro-
trito, aut usitato, aut aliis tertii gradus pœnitentibus destinato, retro ambonem loco fiat, sed ante absidem : hoc est, in patenti ecclesia, et in loco unde ejusmodi pœnitentes eorumque purgationes ab omnibus conspici possent. Omnibus quidem pœnitentibus tertii gradus manus crebro imponebantur, et purgabantur retro ambonem, qui locus est extra : sed juxta ‘chorum,’ ut vocant : an vero ante absidem idem sit ac retro ambonem, et hoc canone nihil aliud sibi velint patres, nisi ut retro ambonem purgentur ejusmodi gravia crimina (alibi enim, si ita visum fuisset episcopo, poterant purgari) an vero ante absidem, lectoris erit judicium. Quæcumque tandem sit hujusce vocis, ‘ante absidem,’ notio et significatio, certum est hujusce canonis mentem esse, ut eorum gravissimorum criminum pœnitentia et purgatio in omnium oculis constituatur, exemplique ejusdam vim rationemque propositi subeat. Nec video, cur non ea ratione explicandus sit canon ille, ommissa illa et posthabita tot dissimilium explicationum mole supervacanea.

^k Cyprian. Epist. xii. al. xvii. ad plebem. (Oxon. 1682. p. 39.) (p. 196, 197, edit. Amstel.) Pœnitentia agatur justo tempore, et exomologesis fiat, inspecta vita ejus qui agit pœnitentiam ; nec ad communionem venire quis possit, nisi prius illi ab episcopo et clero manus fuerit imposita.

cise of penance ; they made their confession, and their life was examined : and then they were received to communion by imposition of hands given them by the bishop and clergy ; and there was no other way of being reconciled but this." He repeats this again in other places :¹ and both there and elsewhere complains of some of his presbyters^m who transgressed this rule, and admitted penitents to the eucharist before this ceremony of admission was regularly performed toward them. He also shows that private reconciliation of penitents upon a death-bed was performed after the same manner : they made their confession before a presbyter or deacon :ⁿ and if they were in danger of death, imposition of hands was given them, that they might depart hence in peace unto the Lord :—which shows that he speaks not only of the intermediate imposition of hands, which was given daily to the third order of penitents called Prostrators, whilst they were doing their penance, but also of the last imposition of hands, which was given to penitents at their final reconciliation to the communion of the Church. This some canons therefore call 'the reconciliatory imposition of hands,' to distinguish it from all other kinds,

¹ Cyprian. Epist. x. al. xvi. (Oxon. p. 37.) (p. 195.) Quum in minoribus peccatis agant peccatores pœnitentiam justo tempore, et secundum disciplinæ ordinem ad exomologesis veniant, et, per manus impositionem episcopi et cleri, jus communicationis accipiant ; nunc crudo tempore, persecutione adhuc perseverante, nondum restituta ecclesiæ ipsius pace, ad communicationem admittuntur, et offertur nomen eorum, et nondum pœnitentia acta, nondum exomologesi facta, nondum manu eis ab episcopo et clero imposita, eucharistia illis datur, etc.

^m Vide Cyprian. de Lapsis, (p. 136. p. 97.) Epist. xii. al. xvii. p. 39. (p. 197.) Epist. xi. al. xv. ad martyres, p. 34. (p. 192, 193.)

ⁿ Cyprian. Epist. xiii. al. xviii. (Oxon. 1682. p. 40.) (p. 197, edit. Amstel.) Si incommodo aliquo et infirmitatis periculo occupati fuerint, non expectata præsentia nostra, apud presbyterum quemcumque præsentem, vel si presbyter repertus non fuerit, et urgere exitus cœperit, apud diaconum quoque exomologesis facere delicti sui possunt, ut manu eis in pœnitentia imposita veniant ad Dominum cum pace. —It. Epist. xiv. al. xix. p. 41. (p. 198.) Satis plene scripsisse me ad hanc rem proximis litteris ad vos factis credo, ut qui libellum a martyribus acceperunt, et auxilio eorum adjuvari apud Dominum in delictis suis possunt, si premi infirmitate aliqua et periculo cœperint, exomologesi facta, et manu eis a vobis in pœnitentia imposita, cum pace a martyribus sibi promissa ad Dominum remittantur.—Epist. xv. al. xx. (Oxon. 1682. p. 43.) (p. 200.) Mandavi ut . . . si qui libello a martyribus accepto de sæculo excederent, exomologesi facta, et manu eis in pœnitentia imposita, cum pace sibi a martyribus promissa ad Dominum remitterentur.

whether in penance or out of penance. The custom continued in Africk to give dying penitents reconciliation in this manner by imposition of hands in the time of St. Austin and the fourth Council of Carthage. For so that council appointed: "If a man in sickness desires^o penance, let him receive it; and if the signs of death be upon him, let him be reconciled by imposition of hands, and let the eucharist be put into his mouth." But in other places the eucharist alone was given to dying penitents, as their viaticum, when they had not performed their whole penance in health; and if they happened to recover, then they were to finish their penance in the ordinary course; and when they had given evidence of a true repentance by the proper fruits of it, they were then to be received publicly to communion by the reconciliatory imposition of hands, as in this case the first Council of Orange^p appointed. Now though there be no mention made of prayer in this way of reconciliation, yet it always is to be understood, according to that of St. Austin,^q who says, that 'imposition of hands is nothing else but prayer,' that is, a ceremony attending all prayers of benediction: which therefore both he^r and other writers sometimes more expressly call 'Orationem Manus Impositionis,' the prayer of imposition of hands: some forms of which both for penance and other benedictions may be seen in the author

^o Concil. Carthagin. IV. c. lxxvi. (Labbé, vol. ii. p. 1205.) Is qui pœnitentiam in infirmitate petit, . . . accipiat pœnitentiam. Et si continuo creditur moriturus, reconcilietur per manus impositionem, et infundatur ori ejus eucharistia.

^p Concil. Arausic. I. c. iii. (Labbé, vol. iii. p. 1448.) Quod si supervixerint, stent in ordine pœnitentium, et ostensis necessariis pœnitentiæ fructibus, legitimam communionem reconciliatoria manus impositione percipiant. See, in book xviii. ch. iv. § 3. (vol. vi. p. 536.) this canon more fully recited.

^q Augustin. de Bapt. lib. iii. c. xvi. (Bened. 1700. vol. ix. p. 79. A.) Quid est enim aliud [impositio manus] nisi oratio super hominem?

^r Augustin. de Peccator. Meritis, lib. ii. c. xxvi. (Bened. 1700. vol. x. p. 42. B 5.) Non unius modi est sanctificatio: nam et catechumenos secundum quemdam modum suum per signum Christi et orationem manus impositionis puto sanctificari: etc. — Clem. Alex. Pædagog. lib. iii. c. xi. p. 291, edit. Oxon. Τῖνι γὰρ ὁ πρεσβύτερος ἐπιτίθησι χεῖρα; τίνα δὲ εὐλογήσει. — Euseb. Histor. lib. i. c. xiii. (Vales. 1695. p. 26. B 9.) Ὅς καὶ αὐτὸς προσελθὼν ὑπὸ τοῦς πόδας αὐτοῦ ἔπεσεν, εὐχὰς τε διὰ χειρὸς λαβὼν ἰερατεύθη. — Lib. vii. c. ii. (p. 204, last line.) Παλαιὸν γέ τοι κεκρατηκότος ἔθους, ἐπὶ τῶν τοιοῦτων μόνῃ χρῆσθαι τῇ διὰ χειρῶν ἐπιθέσεως εὐχῇ. — Constit. Apostol. lib. viii. c. ix. (Labbé, vol. i. p. 467.) Χειροθεσία καὶ εὐχή ὑπὲρ τῶν ἐν μετανοίᾳ.

of the Apostolical * Constitutions ; and particularly for reconciling of penitents there is an order, that the bishop † shall receive them to communion with imposition of hands, and the prayer of the whole Church for them. The form of this prayer is in the end of St. James's Liturgy under the title of εὐχὴ τοῦ ἱλασμοῦ, the prayer of propitiation, which is directed to Christ in these words : " O Lord Jesus Christ, ^u Son of the living

* Constit. lib. viii. c. ix. (Labbé, vol. i. p. 468.) Παντοκράτωρ Θεὲ αἰώνιε, δέσποτα τῶν ὧλων, κτίστα καὶ πύττανι τῶν πάντων· ὁ τὸν ἄνθρωπον κόσμον κόσμον ἀναδείξας διὰ Χριστοῦ, καὶ νόμον δοὺς αὐτῷ ἔμφυτον καὶ γραπτὸν, πρὸς τὸ ζῆν αὐτὸν ἐνθίσμως, ὡς λογικόν· καὶ ἁμαρτύντι ὑποθήκην δοὺς πρὸς μετάνοιαν τὴν σουτοῦ ἀγαθότητα· ἐπίδεδε ἐπὶ τοὺς κεκληκότες σοι αὐχένα ψυχῆς, καὶ σώματος· ὅτι οὐ βούλει τὸν θάνατον τοῦ ἁμαρτωλοῦ, ἀλλὰ τὴν μετάνοιαν, ὥστε ἀποστρέψαι αὐτὸν ἀπὸ τῆς οδοῦ αὐτοῦ τῆς πονηρᾶς, καὶ ζῆν· ὁ Νινευιτῶν προσδεξάμενος τὴν μετάνοιαν· ὁ θέλων πάντας ἀνθρώπους σωθῆναι, καὶ εἰς ἐπίγνωσιν ἀληθείας ἐλθεῖν· ὁ τὸν νῦν προσδεξάμενος, τὸν καταφαγόντα τὸν βίον αὐτοῦ ἀσώτως, πατρικοῖς σπλάγχθοις, διὰ τὴν μετάνοιαν· αὐτὸς καὶ νῦν πρόσδεξαι τῶν ἱκετῶν σου τὴν μετάγνωσιν· ὅτι οὐκ ἔστιν, ὅς οὐχ ἁμαρτήσεται σοι· ἐὰν γὰρ ἁμαρτίας παρατηρήσῃ, Κύριε, Κύριε, τίς ὑποστήσεται; ὅτι παρά σοι ὁ ἱλασμός ἐστι· καὶ ἀποκατάστησον αὐτοὺς τῇ ἀγίᾳ σου ἐκκλησίᾳ, ἐν τῇ προτέρᾳ ἀξίᾳ καὶ τιμῇ, διὰ τοῦ Χριστοῦ τοῦ Θεοῦ καὶ Σωτῆρος ἡμῶν· δι' οὗ σοι δόξα καὶ προσκύνησις, ἐν τῷ ἁγίῳ Πνεύματι, εἰς τοὺς αἰῶνας· ἀμήν. Ibid. cap. xxxix. Vide lib. xiii. c. x. § viii. vol. iv. p. 391.

† Constitut. lib. ii. c. xviii. (Labbé, vol. i. p. 245. A.) Καὶ προσκλαύσαντα εἰσδέχου, πάσης τῆς ἐκκλησίας ὑπὲρ αὐτοῦ δεομένης, καὶ χειροθετήσας αὐτὸν ἕα λοιπὸν εἶναι ἐν τῷ ποιμνίῳ.

^u Liturg. Jacobi, in Biblioth. Patr. Græc. Latin. tom. ii. p. 23. Κύριε Ἰησοῦ, Χριστέ, νὴ τοῦ Θεοῦ ζώντος, ἀμὲν καὶ ποιμὴν, ὁ αἶρων τὴν ἁμαρτίαν τοῦ κόσμου, ὁ τὸ δάνειον τοῖς δυσὶ χρεωφειλέταις χαρισάμενος, καὶ τῇ ἁμαρτωλῇ τὴν ἄφεσιν τῶν ἁμαρτιῶν αὐτῆς δοὺς, ὁ τὴν ἴασιν τῷ παραλυτικῷ ὠρησάμενος, σὺν τῇ ἀφέσει τῶν ἁμαρτιῶν αὐτοῦ, ἄνες, ἄφες, συγχώρησον ὁ Θεὸς τὰ πλημμελήματα ἡμῶν τὰ ἐκούσια, τὰ ἀκούσια· τὰ ἐν γνώσει, τὰ ἐν ἀγνοίᾳ· τὰ ἐν παραβάσει καὶ παρακοῇ γεγόμενα· ἃ οἶδες τὸ Πνεῦμά σου τὸ πανάγιον ὑπὲρ τοὺς δούλους σου· καὶ εἰ τι τῶν ἐντολῶν σου ὡς ἄνθρωποι σάρκα φοροῦντες, καὶ τὸν κόσμον τοῦτον οἰκοῦντες, ἡ ἐκ τοῦ διαβόλου ἐπλανήθησαν, εἴτε ἐν λόγῳ, ἢ ἐν ἔργῳ· εἴτε ὑπὸ κατάραν ὑπέπεσον, ἢ τῷ ἰδίῳ ἀναθέματι, παρακαλῶ καὶ δέομαι τὴν ἄφατόν σου φιλανθρωπίαν, τῷ μὲν λόγῳ λυθῆναι· συγχωρηθῆναι δὲ αὐτοῖς καὶ τῷ ὅρκῳ καὶ τῷ ἰδίῳ ἀναθέματι κατὰ τὴν σὴν ἀγαθότητα. Καὶ δέσποτα κύριε, εἰσάκουσον τῆς δεήσεώς μου ὑπὲρ τῶν δούλων σου, καὶ πάρδεδε ὡς ἀμνηστικός τε καὶ ἐπασιμένα αὐτὰν ἅπαντα· συγχώρησον αὐτοῖς πᾶν πλημμέλημα ἐκούσιόν τε καὶ ἀκούσιον· ἀπαλλάξον αὐτοὺς τῆς αἰωνίου κολάσεως· σὺ γὰρ εἰ ὁ ἐντεταλμένος ἡμῖν, λέγων, ὅτι, "Ὅσα ἂν δήσῃτε ἐπὶ τῆς γῆς, ἔσται δεδεμένα ἐν τοῖς οὐρανοῖς· καὶ ὅσα ἂν λύσῃτε ἐπὶ τῆς γῆς, ἔσται λελυμένα ἐν τοῖς οὐρανοῖς· ὅτι σὺ εἰ ὁ Θεὸς ἡμῶν, Θεὸς τοῦ ἔλεειν καὶ σώζειν καὶ ἀφίεναι ἁμαρτίας δυνάμενος· καὶ πρέπει σοι ἡ δόξα σὺν τῷ ἀνάρχῳ Πατρὶ, καὶ τῷ ζωοποιῷ Πνεύματι, νῦν καὶ αἰεὶ, καὶ εἰς τοὺς αἰῶνας τῶν αἰώνων· ἀμήν.

God, thou shepherd and lamb, that takest away the sins of the world, that forgavest the debt to the two debtors, and grantest remission of sins to the sinful woman, and gavest to the sick of the palsy both a cure and pardon of sins ; remit, blot out, and pardon our sins, both voluntary and involuntary, whatever we have done wittingly or unwittingly, by transgression and disobedience, which thy Spirit knoweth better than we ourselves. And whereinsoever thy servants have erred from thy commandments in word or deed, as men carrying flesh about them, and living in the world, or seduced by the instigations of Satan ; or whatever curse or peculiar anathema they are fallen under ; I pray, and beseech thy ineffable goodness to absolve them with thy word, and remit their curse and anathema according to thy mercy. O Lord and Master, hear my prayer for thy servants ; thou that forgettest injuries, overlook all their failings, pardon their offences both voluntary and involuntary, and deliver them from eternal punishment. For thou art he that hast commanded us, saying, ‘ Whatsoever ye shall bind on earth, shall be bound in heaven ; and whatsoever ye shall loose on earth, shall be loosed in heaven :’ because thou art our God, the God that canst have mercy and save and forgive sins ; and to thee, with the eternal Father, and the quickening Spirit, belongs glory now and for ever, world without end. Amen.”

The like forms of absolution by prayer are still in use in the Greek Church, as may be seen in Goar’s *Euchologium* ^v and Dr. Smith’s *Account of the present state* ^x of that Church.

^v Goar. *Eucholog.* p. 666. *Εὐχή ἐπὶ τῶν ἐξ ἐπιτιμιῶν λυσμένων· Εὐσπλαγχνε Κύριε, ἀγαθὲ καὶ φιλόανθρωπε, ὁ διὰ τοὺς σοὺς οἰκτιρμοὺς ἐξαποστείλας τὸν μονογενῆ σου Υἱὸν εἰς τὸν κόσμον, ἵνα διαβῇ ἡμῶν χειρόγραφον τῶν πλημμελημάτων, καὶ λύσῃ τὰ δεσμά τῶν ὑπὸ τῆς ἁμαρτίας πεπεδημένων, καὶ κηρύξῃ αἰχμαλώτους ἄφεισιν· σὺ, δέσποτα, καὶ τὸν δοῦλόν σου, τὸν δέικνα, τῇ σῇ ἀγαθότητι ἐλευθέρωσον τοῦ ἐπικειμένου αὐτῷ δεσμοῦ, καὶ δώρησαι αὐτῷ ἀναμαρτήτως ἐν παντὶ καιρῷ καὶ τόπῳ προσιέναι τῇ σῇ μεγαλειότητι, μετὰ παύρησας καὶ καθαροῦ συνειδότος, αἰτεῖν τὸ παρά σου πλοῦσιον ἔλεος. Ὅτι ἐλεήμων καὶ φιλόανθρωπος Θεὸς ὑπάρχεις, καὶ σοὶ τὴν δόξαν ἀναπέμπομεν, τῷ Πατρὶ, καὶ τῷ Υἱῷ, καὶ τῷ ἁγίῳ Πνεύματι· νῦν καὶ ἀεὶ, καὶ εἰς τοὺς αἰῶνας τῶν αἰώνων· ἀμήν.*

^x Smith’s *Account of the Greek Church*, London, 1680, p. 181. This form of absolution is not constantly observed, but is varied oftentimes, to the discretion of the penitentiary. Christophorus Angelus, a Greek of the Morea, in the

Bishop Usher shows further^y out of Alcuin, and the old Ordo Romanus, and some of the Roman ceremonies, and pontificals, that the same form was used for many ages in the Latin Church also. And this is confirmed by the old Latin missal published by Illyricus and Cardinal Bona,^z where the absolution, under the title of 'Indulgentia,' runs in this form: "He that forgave the sinful woman all her sins for which she shed tears, and opened the gate of paradise to the thief upon a single confession, make you partakers of his redemption, and absolve you from all the bond of your sins, and heal those infirm members by the medicine of his mercy, and restore them to the body of his holy Church by his grace, and keep them whole and sound for ever."

Other forms of absolution by prayer might be added, but these are abundantly sufficient to show, that anciently the great and formal absolution of public penitents at the altar was usually performed by imposition of hands and prayer; the one as the means procuring, and the other as the rite declaring, their reconciliation to God and his Church.

account he published of the state of this Church, in the year 16—, mentions this form: Κατὰ τὴν ἐξουσίαν, ἣν ἔδωκεν ὁ Χριστὸς τοῖς ἀποστόλοις αὐτοῦ, εἰπὼν, "Ὅσα ἂν λύσῃτε ἐπὶ τῆς γῆς, ἔσται λελυμένα ἐν τῷ οὐρανῷ, καὶ κατὰ τὴν ἐξουσίαν, ἣν ἔδωκεν οἱ ἀπόστολοι τοῖς ἐπισκόποις, καὶ καθ' ἣν ἐξουσίαν ἔλαβον ἀπὸ τοῦ ἐπισκόπου μου, ἔσῃ συγκεχωρημένος ἀπὸ τοῦ Πατρὸς καὶ τοῦ Υἱοῦ καὶ τοῦ ἁγίου Πνεύματος, ἀμήν, καὶ μετὰ τῶν δικαίων ἡ μέρος σου. But in the prayers of pardon, which the priest recites over penitents, and such as have confessed, it runs thus: Αὐτὸς, Δέσποτα, ἄνεις, ἄφεις, συγχώρησον τὰς ἁμαρτίας τοὺς δούλους σου λόγῳ λυθῆναι εὐδόκησον: again, Ὡς ἀγαθὸς καὶ φιλόανθρωπος Θεὸς συγχώρησον: again, Αὐτὸς ὁ Σωτὴρ ἡμῶν καὶ Κύριος Ἰησοῦς Χριστὸς συγχώρησαι σοι πάντα, ὅσα νῦν ἐνώπιον αὐτοῦ τῇ ἐμῇ ἐλαχιστότητι ὁμολογήσω, καὶ ὧν ἀπέλαθου: again, Αὐτὸς, Δέσποτα, συγχώρησον καὶ τὸν δοῦλόν σου, ὃ ἐπὶ τοῖς ἰδίοις οἷς ἔπραξε πλημμελήμασι, δι' ἐμοῦ τοῦ ἀναξίου καὶ εὐτελοῦς, καὶ διαλλάγῃ καὶ ἔνωσον αὐτὸν τῇ ἁγίᾳ ἐκκλησίᾳ: again, Αὐτὸς ὁ Θεὸς συγχωρήσῃ σοι δι' ἐμοῦ τοῦ ἁμαρτωλοῦ.

^y Usher, Answer to the Challenge, p. 88.

^z Bon. Rer. Liturgic. in Appendice, p. 763. Qui mulieri peccatrici omnia peccata dimiserat lacrimanti, et latroni ad unam confessionem claustra aperuit Paradisi, ipse vos redemptionis suæ participes ab omni vinculo peccatorum absolvat, et membra aliquatenus debilitata suæ medicina misericordiæ sanata, corpori sanctæ ecclesiæ, redeunte gratia, restituat, atque in perpetuum solidata custodiat. Qui vivit et regnat, etc. (Antverp. 1677. p. 615.)

SECT. V.—*Absolution in the indicative form, ‘Ego te absolvo,’ not used till the twelfth century.*

If it be enquired, when the use of the indicative form of absolution first began to be used in the Church, that is, the form, ‘I absolve thee,’ instead of the deprecatory form, ‘Christ absolve thee;’ Morinus ^a has fully proved, that there was no use of it till the twelfth or thirteenth century, not long before the time of Thomas Aquinas, who was one of the first that wrote in defence of it. And our learned Bishop Usher ^b has clearly proved the novelty of it from Aquinas himself. For he says, ^c “There was a learned man in his time, who found fault with the indicative form of absolution then used by the priest : I absolve thee from all thy sins ; and would have it to be delivered only by way of deprecation : alledging, that this was not only the opinion of Gulielmus Altissiodorensis, Gulielmus Parisiensis, and Hugo Cardinalis ; but also that thirty years were scarce passed, since all did use this form only : ‘Absolutionem et remissionem tribuat tibi omnipotens Deus,’ Almighty God give thee remission and forgiveness.” This points out the time of the change so precisely, that learned men, ^d who allow the form in some sense proper to be used, make no scruple to declare their opinion of the novelty of it, upon the strength of the foregoing considerations.

^a Morin. de Poenitent. lib. viii. c. viii. ix. x. xi. xii. xiii.

^b Usher, Answer to the Jesuit’s Challenge, p. 89.

^c Aquin. Opuscul. xxii. de Forma Absolutionis, c. v. Addit etiam objiciendo, quod vix triginta anni sunt, quando omnes hac sola forma utebantur : ‘Absolutionem,’ etc. Sed quomodo de omnibus potest testimonium perhibere, qui omnes non vidit ? etc.

^d Vide Fell. not. in Cyprian. de Lapsis. (Oxon. 1682. p. 136.) (p. 97, edit. Amstelod. 1700.) Quantumvis nunc temporis formula judiciaria et potestativa, ‘Ego te absolvo,’ quasi tradita a Christo per apostolos feratur ; ex adverso compertissimum habetur, per decem priora secula in usu minime receptam : imo nec adhuc in Ecclesia Orientali invaluisse. Qua de re videantur quæ diligenter congegessit eruditissimus Morinus in Opere de Administr. Sacr. Poenit. lib. viii. c. viii—xii. Discourse of the Penitential Discipline of the Primitive Church, chap. iii. § 4. Lond. 1614.

SECT. VI.—*In what sense that form may be allowed.*

If it be asked further, in what sense the indicative form of absolution may be allowed; it is answered, that it may be allowed several ways. 1. As an act of jurisdiction, by those who are entrusted with the power of receiving public penitents into communion, and loosing the bonds of excommunication, wherewith they were judicially and formally tied by the censure of the Church before. In this sense it is no impropriety for him who has the key of jurisdiction, and power of relaxing as well as inflicting Church censures, to use the indicative form, 'I absolve thee.' For this is only an external act of ecclesiastical power, that respects only the outward and visible communion, but does not directly or immediately affect the conscience. Therefore some learned persons not only allow the use of it in this sense, but think it was actually so used by some in the primitive^e Church. As by Zephyrinus, bishop of Rome, whom Tertullian (after he was become a Montanist) upbraids,^f as saying, 'I forgive the sins of fornication and adultery to those that do penance for them;' meaning, that he admitted them again to the peace and communion of the Church, which the Montanists, and the Novatians after them, would by no means allow of. 2. This indicative form, 'I ab-

^e Fell. in Cyprian. *ibid.* Notari poterit, in omni delicto duo spectanda occurrere, primo offensam adversus Deum, de qua David Psalm. li. 'In te, in te solum peccavi;' in cujus remedio precibus et resipiscentia unice proficitur, juxta illud D. Petri, (Act. viii. 22.) ad Simonem Magum, 'Pœnitentiam age ab hac nequitia tua, et roga Deum:' secundo intervenire offensam adversus fratres, de qua D. Paulus (1 Cor. viii. 12.) 'Peccantes in fratres, et percutientes conscientiam eorum,' etc. Cui amoliendæ venia ab ecclesia ceu parte læsa, et illius nomine ab episcopo qui eidem præest, omnino expetenda est, juxta illud Apostoli, (2 Cor. ii. 10.) 'Cui autem aliquid donastis, et ego: nam et ego quod donavi, si quid donavi, propter vos in persona Christi.' Et quidem quantum ad forum exterius, sive offensam adversus fratres, locum fortassis habere poterit illa auctoritativa, quæ in Occidentali Ecclesia invaluit, formula, qua et usus fuisse videtur Zephyrinus Tertulliani seculo, 'Ego mœchiæ et fornicationis delicta pœnitentia functis dimitto,' lib. de Pudic. c. i. Nec non illa Confessorum epist. xl. ad Pam. num. xxvi., 'Scias nos universis, de quibus apud te ratio constiterit, quid post commisionem egerint, dedisse pacem:' et epist. xxi. 'universis pacem dimisimus,' etc.

^f Tertull. de Pudicit. c. i. (Paris. 1664. p. 555. B.) Pontifex scilicet Maximus, Episcopus Episcoporum, edicit, 'Ego et mœchiæ et fornicationis delicta pœnitentia functis dimitto.'

solve thee,' may be interpreted to mean no more than the declaration of God's will to a penitent sinner, that upon the best judgment the priest can make of his repentance, he esteems him absolved before God, and accordingly pronounces and declares him absolved: as St. Jerom ^g observes, 'the priests under the old law were said to cleanse a leper or pollute him; not that they were the authors of his pollution, but that they declared him to be polluted, who before seemed to many to have been clean.' And in another place ^h he makes a more close remark concerning this matter, whilst he reflects "upon some bishops and presbyters in his own time, who not understanding the true meaning of the commission to remit sins, assumed to themselves something of a pharisaical pride and loftiness, so as to imagine they had power either to condemn the innocent or absolve the guilty: when yet, before God, it is not the sentence of the priests, but the life of the criminals that is enquired into. We read in Leviticus concerning the lepers, where they are commanded to show themselves to the priests; and if they had the leprosy, they were then to be polluted or made unclean by the priest: not that the priests made them leprous or unclean, but because they had the power of judging who were leprous or not leprous, and might discern who were clean or unclean. As therefore the priest makes the leper clean or unclean, so the bishop or presbyter here binds or looses, not properly making the guilty or the guiltless: but

^g Hieron. lib. vii. in Iesa. xxiii. (Venet. Vallars. 1767. 4to. vol. iv. p. 323. E.) De sacerdotibus in Levitico legimus, 'Contaminatione contaminabit eum,' haud dubium quin sacerdos: non quo contaminationis auctor sit, sed quo ostendat eum contaminatum, qui prius mundus plurimis videbatur.

^h Hieron. in Matth. xvi. tom. ix. p. 49. (Venet. Vallars. 1769. 4to. vol. vii. p. 124. E 7.) Istum locum (Matth. xvi.) episcopi et presbyteri non intelligentes, aliquid sibi de supercilio Phariseorum adsumunt, ut vel damnent innocentes, vel solvere se noxios arbitrentur: quum apud Deum non sententia sacerdotum, sed rerum vita quaeratur. Legimus in Levitico de leprosis, ubi jubentur, ut ostendant se sacerdotibus, et si lepram habuerint, tunc a sacerdote immundi fiant: non quo sacerdotes leprosos faciant et immundos, sed quo habeant notitiam leprosi, et non leprosi, et possint discernere qui mundus, quive immundus sit. Quomodo ergo ibi leprosum sacerdos mundum vel immundum facit, sic et heic adligat vel solvit episcopus et presbyter, non eos qui insontes sunt vel noxii;* sed pro officio suo, quum peccatorum audierit varietates, scit qui ligandus sit, quive solvendus.

[* After *noxii*, Bingham supplies the word *faciens*, "which" (he says) "the sense seems plainly to require."]

according to the tenour of his office, when he hears the distinction of sins, he knows who is to be bound and who to be loosed." Upon this also the Master of the Sentences (following St. Jerom) observes, that the priests of the Gospel have that right and office, which the legalⁱ priests had of old under the law in curing the lepers. These, therefore, forgive sins or retain them, whilst they show and declare that they are forgiven or retained by God. For the priests put the name of the Lord upon the children of Israel; but it was he himself that blessed them, as it is read in Numbers vi. 27. 3. The indicative form, 'I absolve thee,' may be used in the performance of any external act of the ministry, which is used as a means to obtain remission of sins of God: as in the administration of baptism or the eucharist. The priest may as well say, 'I absolve thee,' as 'I baptize thee:' for baptism is an absolution, as we have seen before: but then the priest's part in it is only to administer the external form; but it is God that gives the internal grace, and spiritually baptizes with remission of sins. Yet forasmuch as the priest has power to minister the external form, he may say, 'I baptize thee,' or 'I wash thee with water:' which washing is the outward means appointed by God to convey to us remission of sins, and the internal washing of our souls in the blood of Christ by the power of the Holy Ghost. So likewise in the administration of the eucharist, a priest might say, 'I give thee the body of Christ,' or 'I absolve thee by the body of Christ;' meaning, that he ministered to him the outward element of bread, which is the sacramental body of Christ, appointed to be used as a means to convey the real body of Christ and all his benefits, whereof absolution or remission of sins is one, to the worthy receiver. Our Church has not appointed the indicative form of absolution to be used in all these senses, but only once in the office of the sick: and that may reasonably be interpreted (according to the account given out of St. Jerom) a declaration of the

ⁱ Lombard. Sentent. lib. iv. distinct. xviii. p. 334. In remittendis vel in retinendis culpis id juris et officii habent evangelici sacerdotes, quod olim habebant sub lege legales in curandis leprosis. Hi ergo peccata dimittunt vel retinent, dum dimissa a Deo vel retenta indicant et ostendunt. Ponunt etiam sacerdotes nomen Domini super filios Israel; sed ipse benedicit, ut dicit in Numeris vi. 27.

sinner's pardon, upon the apparent evidences of a sincere repentance, and the best judgment the minister can make of his condition; beyond which none can go but the Searcher of hearts, to whom alone belongs the infallible and irreversible sentence of absolution. But of this only by the way; I now return to the practice of the primitive Church.

SECT. VII.—*Why Chrism or Unction was sometimes added to Imposition of Hands in the reconciliation of certain Heretics and Schismatics to the Church.*

Where we may observe, that besides the common way of reconciling ordinary penitents to the Church, there was something often very peculiar in the reconciliation of heretics and schismatics. For they were considered under a three-fold denomination or distinction: either they were such as had been baptized in the Church, and afterward fell away from it: or, secondly, they were such as were baptized in heresy or schism, but with the usual form of baptism: or, thirdly, they were such as had been baptized by heretics or schismatics by such a corrupted form as destroyed the true nature and essence of the thing itself, and made it altogether a null and void baptism. The first sort were reconciled much after the same manner as other penitents, only making a confession and abjuration of their errors. But the second sort, because they wanted the true effect of baptism, that is, the grace or unction of the Holy Spirit, which they could not have out of the Church in heresy or schism, were therefore reconciled not only with imposition of hands, but with the holy unction or chrism added to it, to give them confirmation, and denote their reception of the Holy Spirit of peace upon their returning to the peace and unity of the Church. And the third sort, because they wanted true baptism, were received after the manner of heathens, with a new baptism, because their first pretended baptism was altogether null and void. This was the distinction made between those several sorts of heretics, and the true grounds and reasons of the different observations in the Church's discipline in their reconciliation and reception. The two latter sorts of heretics were scarce looked upon as properly penitents in the Church, but were

rather received '*sub imagine pœnitentiae*,' under the image and resemblance of the penance that was usually performed by those who had once been members of the Church, as pope Innocent informs us in one of his epistles; where speaking of some who had been baptized by the Arians and other sects, who retained the due form of baptism, he says,^k "They received them under the image of penance with imposition of hands and sanctification of the Holy Spirit, to perfect their baptism, which though given in the name of the Father, Son, and Holy Ghost, yet wanted the grace of the Holy Spirit, which they could not have but upon their return to the peace and unity of the Catholic Church. Therefore then they received them with imposition of hands, and the unction of chrism, if they had not been anointed before." This he repeats in several other^l places. And the same is confirmed by the testimonies of Siricius,^m and Leo,ⁿ and St. Jerom,^o and

^k Innocent. Epist. xviii. ad Alexandr. (Labbé, vol. ii. p. 1269. D 3.) Arianos ceterasque hujusmodi pestes, quia eorum laicos conversos ad Dominum sub imagine pœnitentiæ ac Sancti Spiritus sanctificatione per manus impositionem suscipimus, non videtur, clericos eorum cum sacerdotii aut ministerii ejuspiam suscipi debere dignitate: quoniam quibus solum baptismum ratum esse permittimus, quod utique in nomine Patris et Filii et Spiritus Sancti perficitur, nec Spiritum Sanctum eos habere ex illo baptismo illisque mysteriis arbitramur: quoniam quum a catholica fide eorum auctores desciscerent, perfectionem Spiritus, quam acceperant, amiserunt, etc.

^l Innocent. Epist. ii. ad Victricium, c. viii. (Labbé, vol. ii. p. 1251.) Ut venientes a Novatianis vel Montensibus, per manus tantum impositionem suscipiantur: quia quamvis ab hæreticis, tamen in Christi nomine sunt baptizati: præter eos, si qui forte a nobis ad illos transeuntes rebaptizati sunt. etc. Conf. Epist. xxii. ad Episcopos Macedon. c. iv. et v.

^m Siric. Epist. i. ad Himer. Tarrac. cap. i. (Labbé, vol. ii. p. 1018. A 3.) Prima paginæ tuæ fronte signasti, baptizatos ab impiis Arianis, plurimos ad fidem catholicam festinare, et quosdam de fratribus nostris eosdem denuo baptizare velle, quod non licet: quum hoc fieri et apostolus vetet, et canones contradicant, et post cassatum Ariminense concilium, missa ad provincias a venerandæ memoriæ prædecessore meo Liberio generalia decreta prohibeant, quos nos cum Novatianis, aliisque hæreticis, sicut est in synodo constitutum, per invocationem solam septiformis spiritus, episcopalis manus impositione, catholicorum conventui sociamus. Quod etiam totus oriens occidentisque custodit: a quo tramite vos quoque posthac minime convenit deviare, si non vultis a nostro collegio synodali separari sententia.

ⁿ Leo Epist. xxxvii. ad Leon. Ravennat. c. ii. (Labbé, vol. iii. p. 1316.) Quod si ab hæreticis baptizatum quempiam fuisse cõstitit, erga hunc nullatenus sacramentum regenerationis iteretur: sed hoc tantum, quod ibi defuit,

Gennadius,^p and the author under the name of Justin Martyr,^q and the Councils of Orange^r and Epone:^s all which, because I have had occasion more fully to represent them in another¹ work, I only just mention in this place, with this single remark, that the Council of Orange, and that of Epone, and the author under the name of Justin, expressly mention the ceremony chrism, or anointing with the holy oil; which is also appointed by the Council of Laodicea,^t and the general

conferatur, ut per episcopalem manus impositionem virtutem Sancti Spiritus consequatur. Id epist. xcii. ad Rustic. Narbon. Quæst. xviii. De his, qui in Africa vel Mauritania venerunt, et nesciunt in qua secta sint baptizati, quid circa eos debeat observari? Resp. Non se isti baptizatos nesciunt, sed cujus fidei fuerint, qui eos baptizaverunt, se nescire profitentur. Unde quolibet modo formam baptismatis acceperint, baptizandi non sunt; sed per manus impositionem, invocata virtute Spiritus Sancti, quam ab hæreticis accipere non potuerunt, catholicis copulandi sunt. (Labbé, vol. iii. p. 1408.)

^o Hieron. Dialog. contr. Lucifer. cap. viii. (Venet. 1767. 4to. vol. ii. p. 198.) Numquid dixit (Dominus), Rebaptizentur qui in Nicolaitarum fide baptizati sunt? vel imponantur eis manus, qui eo tempore apud Pergamemos crediderunt, qui disciplinam tenebant Balaam? Quin potius, Age, inquit, pœnitentiam: etc.

^p Gennad. de Eccles. Dogmat. cap. lii. Si qui apud illos hæreticos baptizati sunt, qui in Sanctæ Trinitatis confessione baptizant, et veniunt ad nos, recipiantur quidem ut baptizati, ne Sanctæ Trinitatis invocatio vel confessio annulletur: sed doceantur integre, et instruantur, quo sensu Sanctæ Trinitatis mysterium in ecclesia teneatur: et si consentiunt credere vel acquiescunt confiteri, purgati jam fidei integritate confirmentur manus impositione. Si vero parvuli sunt vel hebetes, qui doctrinam non capiant, respondeant pro illis, qui eos offerunt juxta morem baptizandi: et sic manus impositione et chrismate communiti, eucharistiæ mysteriis admittantur. Id. de Scriptor. Ecclesiast. c. xxvii. Ursinus monachus scripsit adversus eos, qui rebaptizandos hæreticos decernunt, docens nec legitimum nec Deo dignum rebaptizari illos, qui in nomine simpliciter Christi, vel in nomine Patris et Filii et Spiritus Sancti, quamvis pravo sensu, baptizentur: sed post Sanctæ Trinitatis et Christi simplicem confessionem, sufficere ad salutem manus impositionem catholici sacerdotis.

^q Justin. Quæst. xiv. ad Orthodox. (Paris. 1742. p. 446.) *Τοῦ αἱρετικοῦ ἐπὶ τὴν ὀρθοδόξian ἐρχομένου τὸ σφάλμα διορθοῦται, τῆς μὲν κακοδοξίας, τῇ μεταθέσει τοῦ φρονήματος· τοῦ δὲ βαπτίσματος, τῇ ἐπιχρίσει τοῦ ἁγίου μύρου.*

^r Concil. Arausic. i. c. i. (Labbé, vol. iii. p. 1447.) Hæreticos in mortis discrimine . . . cum chrismate et benedictione consignari placet.

^s Concil. Epæon. c. xvi. (Labbé, vol. iv. p. 1578.) Hæreticis in lecto decumbentibus, presbyteros chrismate permittimus subvenire.

¹ Scholast. Hist. of Bapt. part i. chap. i. n. 20 and 21.

^t Concil. Laodicen. c. vii. (Labbé, vol. i. p. 1497.) *Περὶ τοῦ, τοὺς ἐκ τῶν αἱρέσεων, τοῦτ' ἐστὶ, Ναυατιανῶν, ἤτοι Φωτεινιανῶν, ἢ Τεσσαρσκαϊδικατιτῶν, ἐπιστρεφόμενους, ἥ τε πιστοὺς τοὺς παρ' ἐκείνους, μὴ προσδέχεσθαι, πρὶν ἀναθε-*

Council of Constantinople,^u and the second Council of Arles,^v and the Council of Trullo,^x to be used with imposition of hands in the reconciliation of such heretics, as had been baptized in any heresy or schism with the true form of baptism, in the name of the Father, Son, and Holy Ghost; such are required only to renounce their errors, and learn the true faith, and make profession of it; and then they were to be reconciled with imposition of hands and chrism, which was peculiar to this sort of penitents, who had never before been united truly to the Catholic Church. They seem not to have gone through all the stages of penance, as other penitents did in the Church; but to have been reconciled in a more compendious way, more suitable to their state and condition, as strangers and foreigners now just entering within the pale of the Church. For which reason pope Innocent styles their short penance only 'an image,' or faint resemblance of that penance, which held other penitents often very long under the discipline of the Church.

SECT. VIII.—*Why some Heretics could be reconciled no other way, but by a new Baptism.*

As to others, who had been baptized by such heretics as had either wholly rejected or greatly corrupted the true form of baptism, there was a very different way of receiving and recon-

ματίσωσι πᾶσιν αἵρεσιν, ἐξαίρετως δὲ ἐν ᾗ κατείχοντο· καὶ τότε λοιπὸν τοὺς λεγομένους παρ' αὐτοῖς πιστοὺς, ἐκμανθάνοντας τὰ τῆς πίστεως σύμβολα, χρισθέντας τε τῷ ἁγίῳ χρίσματι, οὕτω κοινωνεῖν τῷ μυστηρίῳ τῷ ἁγίῳ.

^u Concil. Constantinop. I. c. vii. (Labbé, vol. ii. p. 951.) 'Ἀρειανὸς, καὶ Μακεδονιανὸς, καὶ Σαββατιανὸς, καὶ Νανατιανὸς, τοὺς λέγοντας ἑαυτοὺς Καθαροὺς καὶ Ἀριστεροὺς, καὶ τοὺς Τεσσαρεσκαίδεκατίτας... δεχόμεθα διδόντας λιβέλλους, καὶ ἀναθεματίζοντας πᾶσαν αἵρεσιν, μὴ φρονοῦσαν ὡς φρονεῖ ἡ ἁγία τοῦ Θεοῦ καθολικὴ καὶ ἀποστολικὴ ἐκκλησία· καὶ σφραγιζομένους, ἡ τοι χριστομένους πρῶτον τῷ ἁγίῳ μύρῳ τό, τε μέτωπον, καὶ τοὺς ὀφθαλμοὺς, καὶ τὰς ῥίνας, καὶ τὸ στόμα, καὶ τὰ ὦτα· καὶ σφραγίζοντες αὐτοὺς λέγομεν, Σφραγὶς δωρεὰς Πνεύματος ἁγίου.

^v Concil. Arelat. II. c. xvii. (Labbé, vol. iv. p. 1013.) Bonosiacos ex eodem errore venientes, quos sicut Arianos baptizari in Trinitate manifestum est, si interrogati fidem nostram ex toto corde confessi fuerint, cum chrismate et manus impositione in ecclesia recipi sufficit.

^x Concil. Trullan. can. xcv. (Labbé, vol. vi. p. 1182.) [Repetit. can. vii. Concil. Constantin. cit. sub litt. anteced. (u). Grischow.]

ciling them to the communion of the Church. For they could be admitted no other way, but as heathens, by the door of baptism; seeing their former pretended baptism was not only defective in some remoter circumstances, but in the very form and essence of it, and therefore reputed absolutely null and void, and necessary to be repeated, in order to make them members of the Church. Upon this account, the Council of Nice^y ordered the Samosatensians or Paulianists, upon their return to the Catholic Church, to be baptized. The Council of Laodicea^z made a like order for the reconciliation of the Montanists or Cataphrygians. The first Council of Constantinople^a decreed the same for the Montanists, Eunomians, and Sabellians. The second Council of Arles^b adds the Photinians; and the Council of Trullo^c the Manichees, Valentinians, Marcionites, and all others of the like nature: that is, all such as had not been truly baptized with due form of

^y Conc. Nicæn. can. xix. (Labbé, vol. ii. p. 37.) *Περὶ τῶν Παυλιανισάντων, εἴτα προσφυγόντων τῇ καθολικῇ ἐκκλησίᾳ, ὅρος ἐκτίθεται ἀναβαπτίζεσθαι αὐτοὺς ἐξάπαντος.*

^z Concil. Laodic. c. viii. (Labbé, vol. i. p. 1497.) *Περὶ τοῦ, τοὺς ἀπὸ τῆς αἱρέσεως τῶν λεγομένων Φρυγῶν ἐπιστρέφοντας, εἰ καὶ ἐν κλήρῳ νομιζόμενῳ παρ' αὐτοῖς τυγχάνοιεν, εἰ καὶ Μίγιστοι λέγοντο· τοὺς τοιοῦτους μετὰ πάσης ἐπιμελείας κατηχεῖσθαι τε καὶ βαπτίζεσθαι ὑπὸ τῶν τῆς ἐκκλησίας ἐπισκόπων τε καὶ πρεσβυτέρων.*

^a Conc. Constantin. can. vii. (Labbé, vol. ii. p. 951. B 9.) *Εὐνομιανοὺς μὲν τοι, τοὺς εἰς μίαν κατὰ δύσιν βαπτιζόμενους, καὶ Μοντανιστὰς, τοὺς ἐν ταῦθα λεγόμενους Φρύγας, καὶ Σαβελλιανούς, τοὺς υἱοπατορίαν διδάσκοντας, καὶ ἕτερά τινα χαλεπὰ ποιοῦντας· καὶ τὰς ἄλλας πάσας αἱρέσεις, ἐπειδὴ πολλοὶ εἰσιν ἐν ταῦθα, μάλιστα οἱ ἀπὸ τῆς Γαλατῶν χώρας ἐρχόμενοι, πάντας τοὺς ἀπ' αὐτῶν θέλοντας προστίθεσθαι τῇ ὀρθοδοξίᾳ, ὥς Ἕλληνας δεχόμεθα· καὶ τὴν πρώτην ἡμέραν ποιοῦμεν αὐτοὺς Χριστιανοὺς, τὴν δὲ δευτέραν κατηχουμένους· εἴτα τὴν τρίτην ἐξορκίζομεν αὐτοὺς μετὰ τοῦ ἑμψοῦν τρίτον εἰς τὸ πρόσωπον καὶ εἰς τὰ ὦτα αὐτῶν καὶ οὕτως κατηχοῦμεν αὐτοὺς, καὶ ποιοῦμεν αὐτοὺς χρονίζειν εἰς τὴν ἐκκλησίαν, καὶ ἀκροᾶσθαι τῶν γραφῶν· καὶ τότε αὐτοὺς βαπτίζομεν.*

^b Concil. Arelat. II. c. xvi. (Labbé, vol. iv. p. 1013.) Photinianos, sive Paulianistas, secundum patrum statuta baptizari oportet.

^c Concil. Trull. c. xevi. (Labbé, vol. vi. p. 1183.) [ubi post verba canonis Concilii Constantinop. sub litt. (a) anteced. adducta, ita pergitur: *Καὶ τοὺς Μανιχαίους δὲ, καὶ τοὺς Οὐαλεντίους, καὶ Μαρκιωνιστὰς, καὶ τοὺς ἐκ τῶν ὁμοίων αἱρέσεων χρῆ ποιεῖν λιβέλλους, καὶ ἀναθεματίζειν τὴν αἵρεσιν, καὶ Νεστόριον, καὶ Εὐτυχήα, καὶ Διδόσκορον, καὶ Σεβήρον, καὶ τοὺς λοιποὺς ἐξάρχους τῶν τοιούτων αἱρέσεων, καὶ τοὺς φρονοῦντας τὰ αὐτῶν, καὶ πάσας τὰς προαναφερομένας αἱρέσεις· καὶ οὕτω μεταλαμβάνειν τῆς ἀγίας κοινωνίας.* Grischow.]

baptism. There was no other way of reconciling such to the Catholic Church, but by instructing and training them up to the knowledge of the true faith, first as catechumens, and then giving them the absolution of baptism; which in this case was allowed to them, as having never received any true baptism before. These were the several ways of reconciling penitent heretics according to the variety of their circumstances, and the different state and condition they were in, when they desired to be reunited to the body of the Church.

SECT. IX.—*What Conditions were required in the Reconciliation of those who fell from the Church into heresy or schism.*

As for those who were baptized in the Church, and afterward fell away into any heresy or schism, we find no other way of reconciling them but the common and ordinary way of reconciling all other penitents, by imposition of hands and prayer. For, as I have noted before, if the first baptism was valid, a second baptism was never allowed to be given to any penitent by way of absolution. Yet some greater hardships and severer conditions were often imposed upon such apostates and deserters, before they could be admitted to the peace of the Church again. If they were ringleaders and broachers of the heresy, who drew others into their error and faction, it was commonly required, that they should bring back the multitude whom they had deceived, before they obtained a perfect absolution. Thus Tertullian^d observes of Marcion, that he was promised to be absolved only upon this condition, that he should reduce those back again to the Church, whom he had led away by his doctrine into perdition: and he undertook to do this, but death prevented him. Cyprian makes a like remark in the case of Trophimus, one of the three bishops that were concerned in giving Novatian an unlawful ordination, whereby they set him up as anti-bishop against Cornelius, and raised a flaming schism in Rome: he says, “his supplication^e

^d Tertull. de Præscript. c. xxx. (Paris. 1664. p. 212. C 6.) Ita pacem recepturus, si ceteros quos perditioni erudisset, ecclesiæ restitueret, morte præventus est.

^e Cyprian. Epist. lii. al. lv. ad Antonian. (Oxon. 1682. p. 105.) (p. 244, edit. Amstelod. 1700.) Quoniam cum Trophimo pars maxima plebis abscesserat, re-

for re-admission was accepted, because by his humility and satisfaction he brought back the people, whom he had drawn into the schism ; and it was not so much Trophimus that was admitted again into the Church, as a great number of the brethren, who had gone aside with him, and would not have returned without their leader.” And yet he was not allowed to retain his episcopal office, but only to communicate in the quality of a layman.—Sometimes it was required of them, as a condition of their absolution, that they should make discovery of the remainders of their faction. St. Austin gives us an instance of this in his own treatment of one Victorinus, a subdeacon, who fled over to the sect of the Manichees : when he returned again, and desired to find a place for repentance, St. Austin refused to admit him, unless he would give information of the rest of his party.¹ Sometimes they were required to anathematize their errors, and abjure them in writing. The Council of Nice exacted this condition^f of the Novatians ; and the Council of Gangra,^g of the Eustathians ; and the second Council of Arles,^h of the Novatians ; and the African Councils,ⁱ of the Donatists. The Council of Laodicea^k

deunte nunc ad ecclesiam Trophimo, et satisfaciente, et poenitentia deprecationis errorem pristinum confitente ; et fraternitatem, quam nuper abstraxerat, cum plena humilitate et satisfactione revocante, auditæ sunt ejus preces ; et in ecclesiam Domini non tam Trophimus, quam maximus fratrum numerus, qui cum Trophimo fuerat, admissus est : qui omnes regressuri ad ecclesiam non essent, nisi cum Trophimo comitante venissent. Tractatu ergo illic cum collegis plurimis habito, susceptus est Trophimus ; pro quo satisfaciebat fratrum reditus et restituta multorum salus : sic tamen admissus est Trophimus, ut laicus communicet, non . . . quasi locum sacerdotis usurpet.

¹ Vide Augustin. epist. lxxiii. (Bened. 1700. vol. ii. p. 661.)

^f Concil. Nicæn. c. viii. (Labbé, vol. ii. p. 32.) *Πρὸ πάντων δὲ τοῦτο ὁμολογήσαι αὐτοὺς ἐγγράφως προσήκει, κ. τ. λ.*

^g Concil. Gangrens. in Procem. (Labbé, vol. ii. p. 416. B 9.) *Εἰ δὲ μεταγνοῖεν, καὶ ἀναθεματίζοιεν ἕκαστον τούτων τῶν κακῶς λεχθέντων, δεκτοὺς αὐτοὺς γίνεσθαι.*

^h Concil. Arelat. II. c. ix. (Labbé, vol. iv. p. 1012.) Novatianum in communionem recipi non debere, nisi suscepta poenitentiae credulitate præteritum damnet errorem.

ⁱ Cod. Afric. can. lvii. (Labbé, vol. ii. p. 1083. D 4.) *Ἀναθεματιζομένου τοῦ τῆς πλάνης δόματος, διὰ τῆς ἐπιθέσεως τῆς χειρὸς ἀναδεχθῶσιν εἰς τὴν μίαν ἐκκλησίαν, κ. τ. λ.*

^k Concil. Laodic. can. vii. cit. § vii. sub litt. (t) pag. 562.

insists upon the same from the Novatians, Photinians, and Quartadecimans. And the general Council¹ of Constantinople exacts it of the Macedonians, Sabbatians, Arians, Novatians, Quartadecimans. And sometimes they were required not only to anathematize error, and subscribe the truth, but to take an oath for greater confirmation: as Socrates says,^m Constantine obliged Arius to do, though he did it fraudulently and like an impostor. This was the precaution which the Church used particularly in the case of heretical apostates, to be ascertained of their sincerity in making recantations, before she would receive them into her communion again, or grant them absolution.

SECT. X.—*Of the Time of Absolution.*

There is one circumstance more to be noted under this head, which is the ordinary time of absolution: this seems to have been fixed, in the ordinary course of discipline, to the day of our Saviour's Passion, or rather the day on which he was betrayed. For so St. Ambrose says expressly, that on the day that our Lord gave himselfⁿ for us, it was usual in the Church to relax men's penance, or grant them absolution.—In the Roman Church, in the time of Pope Innocent,^o the custom was the same, to absolve penitents only upon the Thursday before Easter, except some sickness intervened, and the peni-

¹ Concil. Constantinop. I. c. vii. See note (u) page 563.

^m Socrat. lib. i. c. xxxviii. 'Ο βασιλεὺς ἀπόπειραν Ἀρείου ποιήσασθαι βουληθεὶς, ἐπὶ τῇ βασιλείᾳ αὐτὸν μεταπέμπεται, ἡρώτα τε, εἰ τοῖς ὅροις στοιχεῖ τῆς ἐν Νικαίᾳ συνόδου· ὁ δὲ ἐτοίμως μὴδὲν μελλήσας, ἐπ' αὐτοῦ ὑπέγραφε τὰ περὶ τῆς πίστεως ὀρισθέντα σοφισάμενος· καὶ ὁ μὲν βασιλεὺς θαυμάσας, καὶ ὄρκον ἐπέφερεν· ὁ δὲ καὶ τοῦτο σοφίζόμενος ἐποίησε. (Vales. Amstel. 1700. p. 61. C 6.)

ⁿ Ambros. Epist. xxxiii. ad Marcellin. sororem. Erat dies, quo Dominus sese pro nobis tradidit, quo in ecclesia poenitentialia relaxantur.

^o Innocent. Epist. I. ad Decent. c. vii. (Labbé, vol. ii. p. 1247.) Pœnitentia, si nulla interveniat ægritudo, quinta feria ante pascha remittendum Romanæ ecclesiæ consuetudo demonstrat. etc.—Vide Hieronym. Epist. xxx. Epitaph. Fabiolæ. (Venet. Vallars. vol. i. p. 459. D 8.) Quis hoc crederet... ut errorem publice fateretur: et, tota urbe spectante Romana, ante diem paschæ staret in ordine poenitentium, etc.

tent's life was despaired of: for then he might be reconciled at any time, when necessity required, rather than leave the world without the benefit of communion. It was at or about this time also, that the emperors (perhaps in imitation of this custom of the Church) were wont to send forth their civil absolutions or indulgences, as they called them, whereby at the paschal festival they granted pardon to all criminals, who lay bound in prison for their faults, except some that were of a more malignant and unpardonable nature. This practice was first begun by Valentinian, and continued by Theodosius and the succeeding emperors; of which there is a whole title in the Theodosian^p Code, to mention no other writers at present that speak of it. The monks, who petitioned in behalf of Eutyches in the second Council of Ephesus,^q plainly refer to both customs, the sacred and the civil. For upon this day, say they, meaning the paschal solemnity, the holy Fathers relax the punishment of many offenders: and the emperors loose the bonds of those that are in chains for their transgressions. So that this was the chief time of discharging both civil and ecclesiastical criminals, and in regard to each of them the discharge was styled (according to the nature of the thing, either in a civil or ecclesiastical sense) an absolution or indulgence.

SECT. XI.—*How the Church absolved some penitents, or received them into Communion after Death.*

We have hitherto considered the manner and circumstances of absolution, as given to all sorts of penitents whilst they were living. But besides this we are to take notice of another

^p Cod. Theod. lib. ix. tit. xxxviii. de Indulgentiis Criminum, leg. iii. iv. seqq. (Lugdun. 1665. vol. iii. p. 271.)

^q Acta Synod. Ephes. in act. i. (Labbé, vol. iv. p. 277. C. 4.) 'Ἐπίστη καὶ ἡ τοῦ σωτηρίου πάθος ἡμέρα, καὶ νῦν ἱερὰ, καὶ ἡ τῆς ἀναστάσεως ἑορτή, καθ' ἣν λύεται μὲν τοῖς πλείστοις τῶν ἡμαρτηκότων τὰ ἀπὸ τῶν ἀγίων πατέρων ἡμῶν ἐπιτίμια, λύεται δὲ παρὰ τῶν βασιλευόντων ἐπὶ τῶν ἐκκλημάτων τὰ δεσμὰ τοῖς ὑπευθύνους, κ. τ. λ. See another such instance out of the Council of Berytus, *ibid.* p. 642. A 2. 'Ο ἀρχιεπίσκοπος διὰ τὴν ἑορτὴν ἀπίλυσεν αὐτοὺς τῆς ἀκοινωνησίας ἐπὶ τῷ ὄρω τούτῳ, ἐπὶ τῷ μὴ ἐξελεθεῖν Ἀντιόχειαν, κ. τ. λ.

way of absolving penitents, and receiving men into communion even after death. For it sometimes happened, that true penitents, and very good men, by accident died under the censure of excommunication unrelaxed, and so out of the external visible communion of the Church. Which might happen in two cases: 1. When penitents chanced to die suddenly, whilst they were diligently performing their penance; or were in a journey, or at sea, where they had no minister to give them a formal reconciliation or absolution. 2. When innocent men were overborne by some great and prevalent faction, and unjustly excommunicated, and never received into the external communion of the Church by reason of the power that prevailed against them. For both these cases the Church provided a remedy by using some ceremony to admit them into communion, or rather to acknowledge them to be in communion after death. For penitents who died suddenly whilst they were carefully doing their penance, it was provided, that notwithstanding this accident they should be treated as persons dying in the communion of the Church, though they wanted a formal reconciliation. To this purpose, the fourth Council of Carthage made a decree,^r that if any penitents, who were diligently observing the rules of penance, happened to die by any sudden accident, whilst they were in a journey or at sea, where no assistance could be given them, their memorials notwithstanding should be recommended both in the prayers and the oblations of the Church. And the second Council of Vaison^s has an order of the same nature, which is a little more particular: “if any of those who have submitted to the laws of

^r Concil. Carthagin. IV. can. lxxix. (Labbé, vol. ii. p. 1206.) *Pœnitentes, qui attente leges pœnitentiæ exsequuntur, si casu in itinere vel in mari mortui fuerint, ubi eis subveniri non possit, memoria eorum et orationibus et oblationibus commendetur.*

^s Concil. Vasense II. can. ii. (Labbé, vol. iii. p. 1457.) *Pro his, qui pœnitentia accepta, in bonæ vitæ cursu satisfactoria compunctione viventes, sine communione inopinato nonnunquam transitu, in agris aut itineribus præveniuntur, oblationem recipiendam, et eorum funera, ac deinceps memoriam ecclesiastico adfectu prosequendam: quia nefas est eorum commemorationes excludi a salutaribus sacris, qui ad eadem sacra fidei adfectu contententes... absque sacramentorum viatico interceptiuntur: quibus fortasse nec absolutissimam reconciliationem sacerdos denegandam putasset.*

penance, and in pursuance thereof lead a good life in all satisfactory compunction, shall happen to be prevented by sudden death in the country or in a journey, their oblations shall be received, and their funeral obsequies and memorials be performed after the manner and custom of the Church: because it were unreasonable to exclude the commemorations of those out of the sacred service, to which service they were labouring with all diligence and fidelity to attain; and to whom the bishop (though they chanced to be intercepted from receiving the viaticum of the eucharist) would perhaps not have thought it improper to have granted the most perfect reconciliation." The practice of the Roman Church indeed was otherwise in the time of Popè Leo, as appears from some of his epistles:† but their practice was almost singular: for the general current was against them inclining to the more favourable side in behalf of such penitents as died suddenly without reconciliation. Which is observed by the Fathers in the eleventh Council of Toledo, who thereupon determine," that though there were different rules about this matter, yet it was more proper to follow the majority, which decreed on the favourable side in behalf of such penitents, that their memorial should be recommended in the Church, and that the presbyters should receive their oblations. As to the other sort of persons, who were unjustly excommunicated by the power of some prevailing faction, the way of restoring them to the external communion

† Leo Epist. xc. al. xcii. ad Rustic. cap. vi. Inquisit. viii. (Labbé, vol. iii. p. 1407.) De his, qui animo jam deficientes poenitentiam accipiunt, et ante communionem moriuntur. Responsio. Horum causa Dei judicio reservanda est, in cujus manu fuit, ut talium obitus usque ad communionis remedium differretur. Nos autem, quibus viventibus non communicavimus, mortuis communicare non possumus.—Epist. lxxix. al. xci. ad Theodor. Si aliquis eorum, pro quibus Domino supplicamus, quocumque interceptus obstaculo, a munere indulgentiæ præsentis exciderit, et priusquam ad constituta remedia perveniat, temporalem vitam humana conditione finierit: quod manens in corpore non receperit, consequi exutus carne non poterit. (Labbé, iii. p. 1403. B.)

u Concil. Toletan. xi. c. xii. (Labbé, vol. vi. p. 553. B.) De his, qui accepta poenitentia, antequam reconcilientur, ab hac vita recesserint; quamquam diversitas præceptorum de hoc capitulo habeatur, illorum tamen nos sententias placuit sequi, qui multiplices numero de hujusmodi humanius decreverunt; ut et memoria talium in ecclesiis commendetur, et oblatio pro eorum [delicto a presbyteris recipiatur] dedicata spiritibus accipiatur.

of the Church after death was by inserting their names into the diptychs of the Church (as Theodoret^v tells us it was done by Atticus in the case of Chrysostom) which was enough to restore them after death to the communion and fellowship of the faithful. And so I have done with the circumstances and ceremonies, observed in the ancient manner of absolution.

CHAPTER III.

OF THE MINISTER OF ECCLESIASTICAL DISCIPLINE, AND PARTICULARLY OF THE MINISTER OF ABSOLUTION.

SECT. I.—*All the power of Discipline primarily lodged in the hands of the Bishop.*

THERE remains but one thing more to be examined in this matter, relating to the exercise of discipline in the practice of the Church; and that is, by what hands it was managed? Who ordinarily had the power of the spiritual sword? And who particularly was the proper minister of absolution? That all the power of discipline was primarily lodged in the hands of the bishop, as all other offices of the Church, is a matter uncontested, and evident from the whole foregoing history and account of the practice of the Church. For the canons always speak of the bishop, at least in conjunction with his ecclesiastical senate, his presbytery, as cutting off offenders from the Church, and imposing penance upon them; and then again examining their proficiency, and either lengthening their penance, or moderating it by his indulgence: and finally admitting them to the communion of the Church by absolution.

^v Theodoret. lib. v. c. xxxiv. (Vales. Amstel. 1695. p. 240. C 11.) Τελευτήσαντος δὲ τοῦ μεγάλου Διδασκάλου τῆς οἰκουμένης, οὐ πρότερον οἱ τῆς ἐσπέρας ἐπίσκοποι τῶν ἐν Αἰγύπτῳ καὶ τῇ ἑώρ, καὶ τῶν ἐν τῷ Βοσπόρῳ καὶ τῇ Θράκῃ τὴν κοινωνίαν ἡσπάσαντο, ἕως ἐκείνου τοῦ θεσπεσίου ἀνδρὸς τοῦνομα τοῖς τεθνεώσιν ἐπισκόποις συνέταξαν. καὶ Ἀρσάκιον μὲν, ὃς μετ' ἐκείνον ἐγένετο, προσήρσεως οὐκ ἤξιωσαν Ἀττικὸν δὲ, τὸν Ἀρσακίου διάδοχον, πολλάκις μὲν πρεσβευσάμενον, πολλάκις δὲ τῆς εἰρήνης τυχεῖν ἀξιώσαντα, χρόνῳ ὕστερον ἐδέξαντο τὴν προσηγορίαν ἐγγράψαντα. Vide Concil. Constantinop. sub Menna, act. v. in the case of Leo, Euphemius, and others.

SECT. II.—*This in many cases committed to Presbyters, either by a general or particular Commission.*

And this, so far as the bishop could manage it, might be retained solely to himself, and exercised at his own discretion. But because the necessities of the Church required in many cases, that part of this burden should devolve upon others, and the bishop was not able personally to discharge the whole of it to all that needed; therefore presbyters, as his proper assistants, were taken in to be sharers and fellow-labourers with him. They had a general commission to grant the great indulgence or absolution of baptism, and that of the eucharist, and the word and doctrine, to all that needed: and though they were more restrained in the exercise of public discipline, and the final reconciliation of public penitents by imposition of hands and prayer; yet the intermediate imposition of hands upon the penitents in their daily exercise, was often committed to them: and by the bishop's leave, they might give the final reconciliation to public penitents, either openly in the Church, or privately on a sick bed, when necessity and the fear of imminent death required a speedier absolution. This is evident from the very canons which restrain the power of presbyters in reconciling public penitents, and reserve it solely to the bishop: they still admit of these limitations and exceptions. The second Council of Carthage has two canons, which thus divide the matter between them. The first ^a says, A presbyter shall not reconcile any penitent in the public service. But the other immediately adds,^b that If any one be in danger of death, and desires to be reconciled to the altar, if the bishop be absent, the presbyter shall consult the bishop, and so reconcile him at his command. And so the third Council of Carthage determined,^c that a presbyter should not reconcile a

^a Concil. Carth. II. c. iii. (Labbé, vol. ii. p. 1160.) Reconciliare quemquam in publica missa, presbytero non licere, hoc omnibus placet.

^b Ibid. can. iv. (Labbé, vol. ii. p. 1160.) Si quisquam in periculo fuerit constitutus, et se reconciliari divinis altaribus petierit, si episcopus absens fuerit, debet utique presbyter consulere episcopum, et sic periclitantem ejus præcepto reconciliare.

^c Concil. Carth. III. c. xxxii. (Labbé, vol. ii. p. 1171.) Presbyter, inconsulto

penitent without consulting the bishop, unless the bishop was absent, and necessity compelled him. The Council of Orange made a like decree^d about reconciling such penitents as had been baptized by heretics, that in case they were in danger of death, and desired to be made Catholics, if the bishop was absent, a presbyter should consign them with chrism and the benediction. And the Council of Epone^e has a like order, that if any heretics, who lay desperately sick upon their beds, desired suddenly to be converted; in that case, for the salvation of their souls, which was heartily desired, a presbyter should be permitted to give them the consolation of chrism, that is, both confirmation and reconciliation, which those that were in health, were only to desire of the bishop. And that this was the ancient rule of the Church appears from the letters of Dionysius, bishop of Alexandria,^f in Eusebius, where he says he had given orders to his presbyters to grant absolution to all that were at the point of death, if they desired it; and especially if they had desired it before, that they might have hope and consolation in their last minutes, when they were about to leave the world.

SECT. III.—*And to Deacons also.*

Neither was this commission and license granted only to presbyters, but to deacons also. For as they were allowed to give men the absolution of baptism, in cases of extreme necessity, so they were authorized to grant penitents the reconciliatory absolution in the same circumstances likewise. For so

episcopo, non reconciliet poenitentem, nisi absente episcopo, et necessitate cogente.

^d Concil. Arausic. I. can. i. (Labbé, vol. iii. p. 1447.) Hæreticos in mortis discrimine positos, si catholici esse desiderent, si desit episcopus, a presbyteris cum chrismate et benedictione consignari placet.

^e Concil. Epauensis. xvi. (Labbé, vol. vi. p. 1578.) Presbyteros, propter salutem animarum, quam in cunctis optamus, desperatis et [in lecto] decumbentibus hæreticis, si conversionem subitam petant, chrismate permittimus subvenire. Quod [etiam] omnes conversuri, si sani sunt, ab episcopo noverint expetendum.

^f Apud Eusebium, lib. vi. c. xlv. (Vales. 1695. p. 200. D 3.) Ἐντολὴς δὲ ὑπ' ἐμοῦ δεδομένης, τοὺς ἀπαλλαττομένους τοῦ βίου, εἰ δέοντο, καὶ μάλιστα εἰ καὶ πρότερον ἱκετεύσαντες τύχοιεν, ἀφίσσθαι, ἢ ἐνελπίδες ἀπαλλάττωνται.

the Council of Eliberis^g seems to determine, that though presbyters ordinarily had not power to admit any one to penance, but only the bishop; yet in case of infirmity, both presbyters and deacons ought to receive penitents to the communion, having the bishop's command to do it. This is more plainly delivered by Cyprian, who says,^h If penitents were seized with any calamity, and were in apparent danger of death, in the absence of the bishop, they might make their confession before any presbyter that was present; or if a presbyter could not be found, before a deacon, and receive imposition of hands, that they might go to the Lord in peace.—It is plain, also, that the clergy had some share with the bishop in the more public and solemn absolutions: because Cyprianⁱ often complains of some forward men, who were desirous to have the eucharist granted them, before they had received the solemn imposition of hands from the bishop and the clergy, to reconcile them to the altar.

^g Concil. Iliberritan. can. xxxii. (Labbé, vol. i. p. 974.) Apud^{*} presbyterum, si quis gravi lapsu in ruinam mortis inciderit, placuit agere pœnitentiam non debere, sed potius apud episcopum: cogente tamen infirmitate, necesse est presbyterum communionem præstare debere, et diaconum, si ei jusserit sacerdos.

^h Cyprian. Epist. xiii. al. xviii. (Oxon. 1682. p. 40.) (p. 197, edit. Amstelod. 1700.) Si incommodo aliquo et infirmitatis periculo occupati fuerint (pœnitentes); non expectata præsencia nostra, apud presbyterum quemcumque præsentem, vel si presbyter repertus non fuerit, et urgere exitus cœperit, apud diaconum quoque exomologesin facere delicti sui possint; ut manu eis in pœnitentia imposita, veniant ad Dominum cum pace. Vide epist. xiv. al. xix. ad cler. p. 41. (p. 198.) Quoniam significastis quosdam immoderatos esse, et communicationem accipiendam festinanter urgere; et desiderastis in hac re formam a me vobis dari; satis plene scripsisse me ad hanc rem proximis litteris ad vos factis credo, ut . . . si premi infirmitate aliqua et periculo cœperint, exomologesi facta, et manu eis a vobis in pœnitentia imposita, cum pace a martyribus sibi promissa, ad Dominum remittantur.

ⁱ Cyprian. epist. x. al. xvi. p. 37. (p. 195.) Nondum manu eis ab episcopo et clero imposita, eucharistia illis datur, etc. Epist. xi. al. xv. p. 84. (p. 193.) Ante manum ab episcopo et clero in pœnitentiam impositam, etc. Epist. xii. al. xvii. p. 34. (p. 197.) Nec ad communicationem venire quis possit, nisi prius illi ab episcopo et clero manus fuerit imposita, etc.

SECT. IV.—*How far, and in what sense, Absolution might be said to be given by a Layman.*

But as presbyters and deacons did nothing alone in this matter without the bishop, but either in conjunction with him or by his authority and permission ; so much less was this power intrusted in the hands of any layman. Only in case of extreme necessity, some canons allowed a layman to give baptism to a catechumen (which was reputed, as we have heard before, one sort of absolution) rather than he should die unbaptized. This is evident from the decree made in the Council of Eliberis,^k that in a voyage at sea, or in any place where there was no church near at hand, if a catechumen happened to be extremely sick, and at the point of death, any Christian, who had his own baptism entire, and was no bigamist, might baptize him. And the sentiments of Tertullian, St. Jerom, and St. Austin, with several others that have been canvassed^l in another book, show that this was not the singular opinion of that council. As to the other sacrament, we nowhere find that either deacons or laymen were allowed to consecrate it ; that being the office of presbyters only. Neither were laymen allowed to minister publicly either the bread or the cup, when consecrated, to the people : for that was the standing office of deacons. Yet a layman, in case of absolute necessity, might carry and minister the consecrated bread and wine in private to a dying person, and so far be instrumental in his absolution. As appears from that famous case related by Eusebius^m out of Dionysius of Alexandria, concerning Serapion, who had the eucharist sent him by the priest, and given him by the hands of his servant. But the remark which bishop Fellⁿ makes

^k Concil. Illiberit. can. xxxviii. (Labbé, vol. i. p. 974.) *Peregre navigantes, aut si ecclesia in proximo non fuerit, posse fidelem, qui lavacrum suum integrum habet, nec sit bigamus, baptizare in necessitate infirmitatis positum catechumenum: etc.*

^l Scholast. Hist. of Lay Baptism, part i. chap. i. n. 8. etc.

^m Euseb. lib. vi. c. xlv. See note (d) p. 536. where the whole story is more fully related.

ⁿ Fell. not. in Cyprian. Epist. xviii. (Oxon. 1682. p. 40.) (p. 197, edit. Amstelod. 1700.) *Quæcumque necessitas cogit, etiam illa defendit. Nota est historia apud Eusebium (vi. c. 44.) eucharistiæ per puerum Serapioni transmissæ: nemo tamen dixerit, fas esse pueris sacra illa mysteria distribuere.*

upon this, is very just: that 'whatever necessity compels men to do, it defends, but only so far and so long as the necessity lasts. It is a known story in Eusebius, of the eucharist being transmitted to Serapion by a boy: yet no one may thence infer, that therefore children may dispense those holy mysteries.' He thinks the same reason holds for deacons reconciling penitents in case of extreme necessity: that it was an extraordinary case; and no consequence is to be drawn from necessity and extraordinary cases, to prejudice the ordinary rules and standing measures of the Church. If men exceed their commission, and excommunicate or absolve without power, they are themselves liable to censure for their usurpation; and the Church may reverse all such irregular acts by her own just authority at pleasure. Therefore when the Council of Ephesus had deposed Nestorius and Coelestius for their heresy, and reduced them to the state of laymen, she declared, that she took from them all the power of the priesthood, which enabled them to do good^o or harm to others, that is, either to excommunicate or absolve. And whereas Nestorius after this pretended to depose some clerks from their priestly office for their orthodoxy, the synod declared his act a nullity, and that the priests so deposed^p should be restored to their station again. And on the other hand, whereas Nestorius and his accomplices had attempted to restore those to communion, or their order, whom the synod had condemned, the synod^q declared, this should not profit them; they should remain excommunicate or deposed notwithstanding. This shows, that neither laymen,

^o Concil. Ephesin. in Epist. Encyclica. Οὗς τινας δόγματι κοινῇ ἡ ἀγία σύνοδος πάσης μὲν ἐκκλησιαστικῆς κοινωνίας ἀλλοτρίους ἐποίησε, πᾶσαν δὲ αὐτῶν ἐνέργειαν ἱερατικὴν περιεῖλε, δι' ἧς ἡδύναντο βλάπτειν ἢ ὠφελεῖν τινάς.

^p Concil. Ephesin. can. iii. (Labbé, vol. iii. p. 806.) Εἰ δὲ τινες καὶ τῶν ἐν ἐκάστῃ πόλει ἡ χώρα κληρικῶν ὑπὸ Νεστορίου καὶ τῶν σὺν αὐτῷ ὄντων τῆς ἱερωνύμης ἐκωλύθησαν διὰ τὸ ὀρθῶς φρονεῖν, ἐδικαιώσαμεν καὶ τοὺτους τὸν ἴδιον ἀπολαβεῖν βαθμόν.

^q Ibid. can. v. (Labbé, vol. iii. p. 806.) "Οσοι δὲ ἐπὶ ἀτόποις πράξεσι κατεκρίθησαν ὑπὸ τῆς ἀγίας συνόδου, ἡ ὑπὸ τῶν οἰκείων ἐπισκόπων, καὶ τοὺτους ἀκανονίστως κατὰ τὴν ἐν ἅπασιν ἀδιαφορίαν αὐτοῦ ὁ Νεστόριος, καὶ οἱ τὰ αὐτοῦ φρονούντες ἀποδοῦναι ἐπειράθησαν ἢ πειραθεῖεν κοινωνίαν, ἢ βαθμόν, ἀνωφελήτους εἶναι, καὶ μένειν καὶ τοὺτους, καὶ εἶναι οὐδὲν ἥττον καθηρημένους ἐδικαιώσαμεν.

nor clerks reduced to the state of laymen, had any power of binding or loosing by the ordinary rules of discipline in the Church. And so, Theodoret^r says, a certain bishop told Theodosius Junior, when he was under some concern for being rashly excommunicated by a monk. The good emperor was uneasy even under an unjust excommunication by an incompetent authority pronounced against him, and would not sit down to meat till he was absolved. For which purpose he sent to the bishop, to desire him to engage the person who had bound him, to come and absolve him; the bishop told him, it did not belong to every one to excommunicate, and therefore he was absolved already: yet this did not satisfy the emperor, till the man was found out, to come himself, and restore him to the communion of the Church. The bishop's answer in this case was certainly very just; but the emperor, being a man of a tender conscience, could not entirely rest upon it. Perhaps he was sensible he had done the monk some personal injury: in which case, personal satisfaction was to be made, and private pardon to be asked, according to that rule of our Saviour, "If thou bring thy gift to the altar, and there rememberest that thy brother hath ought against thee; leave there thy gift before the altar, and go thy way; first be reconciled to thy brother, and then come and offer thy gift." In this case, every man has power to pardon the sins of his brother, and also to admonish him, and instruct him, and pray for him; which are private and remote ways of reconciling him to the altar. It is of these St. Austin^s speaks, in conformity to that precept of

^r Theodoret. lib. v. c. xxxvii. (Vales. Amstel. 1695. p. 242.) Ἀνὴρ τις ἀσκητικὸν μὲν ἀσπαζόμενος βίον, βραδυτέρῃ δὲ χρώμενος γνώμῃ, προσελήλυθε τῷ βασιλεῖ περὶ τινος δεόμενος. Ἐπειδὴ δὲ τοῦτο δράσας πολλάκις οὐκ ἔτυχε, τῆς ἐκκλησιαστικῆς αὐτὸν κοινωνίας ἐκώλυσε, καὶ τὸν δεσμὸν ἐπιθείς, ὑπεχώρησεν. ὁ δὲ πιστότατος βασιλεὺς, παραγενόμενος εἰς τὰ βασιλεῖα, καὶ τοῦ καιροῦ καλοῦντος εἰς εὐωχίαν, καὶ τῶν συσσίτων παρόντων, οὐκ ἔφη πρὶν λυθῆναι τὸν δεσμὸν, μετασχεῖν τροφῆς· καὶ τούτου δὴ ἕνεκα πρὸς τὸν ἀρχιερεῖα τὸν οικειότατον ἔπεμψε, παρακαλῶν ἐπιτρέψαι τῷ δεδοκίμῳ τὸν δεσμὸν διαλῦσαι· τοῦ δὲ ἐπισκόπου φήσαντος μὴ χρῆναι παρὰ παντὸς ὀτιοῦν δεχίσθαι τὸν δεσμὸν, καὶ δεδηλωκότος ὡς λέλυται, οὐκ ἐδέξατο τὴν λύσιν, ἕως ὃ δῆσας, σὺν πολλῷ τῷ πόνῳ ζητηθεὶς, τὴν κοινωνίαν ἀπέδωκεν.

^s Augustin. Tract. lviii. i. in Joan. tom. ix. p. 164. (p. 401. edit. Basil. 1569.) (Bened. 1700. vol. iii. 2 part. p. 481. E.) Invicem nobis delicta donemus, et pro nostris delictis invicem oremus, atque ita quodammodo pedes nostros lave-

the Apostle, Col. iii. 13. "Forgiving one another, if any man have a quarrel against any; even as Christ forgave you, so also do ye." "Let us forgive one another's sins," says he, "and pray for the sins of each other, and so in some measure wash one another's feet. It is our part by the gift of God, to use the ministry of charity and humility; but it belongs to God, to hear our prayers, and cleanse us from all pollution of sins by Christ and in Christ, that what we forgive unto others, that is to say, what we loose upon earth, may be loosed in heaven." This is so necessary a part of Christian duty, that no one may forego this way of loosing his brother, under pain of having his own sins retained by God. "For if we forgive men their trespasses, our heavenly Father will also forgive us: but if we forgive not men their trespasses, neither will our Father forgive our trespasses." Upon which one of the ancients^t observes, that we bind ourselves the faster in our own sins, if we refuse to loose the bonds of others.—And nothing is more common among the Fathers than to say, men bind themselves or are bound by others, when they trespass against them, and never ask forgiveness: and that they loose themselves or others from sin, either by almsdeeds, or charity, or converting of sinners, or praying for them, or remitting their trespasses committed against them. With respect to binding,^u St. Austin says, When any brother sins against another, and he thereupon begins

mus. Nostrum est, donante ipso, ministerium caritatis et humilitatis adhibere: illius est exaudire, ac nos ab omni peccatorum contaminatione mundare per Christum, et in Christo, ut quod aliis etiam dimittimus, hoc est in terra solvimus, solvatur in cælo.

^t Sedulius Carm. Paschal. lib. ii. Biblioth. Patr. tom. viii. p. 665.

Debita laxari qui nobis cuncta rogamus,
Nos quoque laxemus: proprii nam cautio verbi
Spondentes manifesta tenet; graviorque soluti
Nectimur, alterius si solvere vincla negemus.
Incipietque pius, decies millena talenta
Dimittens, Dominus, si nos adfligere propter
Denarios centum conservum senserit ullum,
Tradere confestim tortoribus: etc.

^u Augustin. de Verbis Domin. serm. xvi. c. iv. (tom. x. p. 70, edit. Basil. 1569.) (Bened. 1700. vol. v. p. 309. E.) Cœpisti habere fratrem tuum (in te peccantem) tamquam publicanum, ligas illum in terra: sed ut juste adliges, vide. Nam injusta vincula dirumpit justitia.

to esteem him as a publican, he binds him on earth: but he must take care that he bind him justly; for unjust bonds are broken by the justice of God.—And for loosing, Origen reckons up seven ways, whereby Christians may obtain remission of sins, whereof five are apparently private actions of private men. The first is baptism, whereby men are baptized for the remission of sins.* The second is the suffering of martyrdom. The third is almsdeeds: for our Saviour says, “Give alms, and behold all things are clean unto you.” The fourth is forgiving the sins of our brethren. For our Lord and Saviour says, “If ye from your heart forgive your brethren their trespasses, your Father will forgive your trespasses.” The fifth is, when one converts a sinner from the error of his ways. The sixth is the abundance of charity, as our Lord says, “Her sins, which are many, are forgiven, because she loved much.” The seventh is the hard and laborious way by penance, when a man waters his couch with his tears, and his tears are his bread day and night, and he is not ashamed to declare his sin to the priest of the Lord, and seek a cure.—The first and last of these, viz. baptism and penance, are public acts, in which the ministry of the priest is concerned: but all the rest, martyrdom, almsdeeds, forgiving injuries, converting sinners, and exceeding love of God, are private actions of private men, and may be performed

* Origen. Hom. ii. in Levitic. tom. i. p. 111. (p. 67, fin. p. 68, edit. Paris. 1604.) Audisti quanta sint in lege sacrificia pro peccatis: audi nunc, quante sint remissiones peccatorum in evangeliiis. Est ista prima, qua baptizamus in remissionem peccatorum. Secunda remissio est in passione martyrii. Tertia est, quæ pro eleemosyna datur: dicit enim Salvator, ‘Verumtamen date eleemosynam, et ecce omnia munda sunt vobis.’ Quarta nobis fit remissio peccatorum per hoc, quod et nos remittimus peccata fratribus nostris. Sic enim dicit ipse Dominus et Salvator noster, ‘Quia si dimiseritis fratribus vestris ex corde peccata ipsorum, et vobis remittet Pater vester:’ et sicut in oratione nos dicere docuit, ‘Remitte nobis debita nostra, sicut et nos remittimus debitoribus nostris.’ Quinta remissio peccatorum est, quum ‘converterit quis peccatorem ab errore viæ suæ, salvat animam ejus a morte, et cooperit multitudinem peccatorum.’ Sexta quoque fit remissio per abundantiam caritatis, sicut et ipse Dominus dicit, ‘Amen dico, remittuntur ei peccata multa, quoniam dilexit multum.’ Et apostolus dicit, ‘Caritas cooperit multitudinem peccatorum.’ Est adhuc et septima, licet dura et laboriosa, per penitentiam remissio peccatorum; quum lavat peccator in lacrimis stratum suum, et fiunt ei lacrimæ suæ panes die et nocte, et quum non erubescit sacerdoti Domini indicare peccatum suum, et quærere medicinam.

by any good Christian. And therefore the remission of sins that is ascribed to them, is no peculiar act of the ministry, but may be the act of any private Christian. Consequently so far laymen may be concerned in the remission of sins without any entrenchment upon the ministry: but these being only private acts, are of no further consideration in the present discourse, which only relates to ministerial absolution, and the public discipline of the Church.

I have now gone over all that relates to the exercise of penitential discipline, so far as concerns the practice of the ancient Church. As for doctrinal points, such as the question, whether penance be properly a sacrament; and whether sacerdotal absolution be necessary to salvation;—these come not directly within the design of the present undertaking, which only considers the practice of the Church. But because I have had occasion to write some little tracts upon the latter question, and it will not be unacceptable to some readers to see them made public, I shall here¹ subjoin them by way of appendix to the present discourse.

¹ These Tracts are placed, in the present edition, in the 8th volume.

END OF THE SIXTH VOLUME.

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